2839.

SUPREME COURT OF THE UNITED STATES.

No. 105.

EDWARD M LIVERMORE AND DAVID B. SEXTON, APP'TS.

vs.

THOMAS A. JENCKES, ALEXANDER FARNUM, AND STEPHEN WATERMAN.

APPEAL FROM THE CIRCUIT COURT U. S. FOR THE SOUTHERN DISTRICT OF NEW YORK.

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To the Supreme Court of the United States of America:

The petition of Edward M. Livermore and David B. Sexton respectfully represents, that a decree was lately made by the circuit court of the United States for the southern district of New York, in equity, bearing date the sixth (6th) day of May, in the year of our Lord one thousand eight hundred and fifty-seven, in a certain cause pending in said court, wherein your petitioners were plaintiffs and Stephen Waterman, Thomas A. Jenckes, and Alexander Farnum were defendants, which said decree, as your petitioners are advised, and every part thereof, is erroneous, and ought to be reversed.

And your petitioners further show that the matter in dispute in said cause, exclusive of costs, exceeds in value the sum of two thousand dollars. Whereupon your petitioners pray that the said decree, together with the pleadings, depositions, and all other proceedings in said cause, may be sent to the said Supreme Court of the United States, and filed therein, on the first Monday of December, 1857, and that the said decree and every part thereof may be reversed, and that your petitioners may be restored to all things which they have lost by reason thereof.

Dated , 1857.

CLAUDIUS L. MORRELL,
Solicitor for Appellant, No. 54 Wall st., N. York.

By the honorable , one of the judges of the circuit court of the United States for the southern district of New York:

Whereas Edward M. Livermore and David B. Sexton have presented to me a petition of appeal, directed to the Supreme Court of the United States of America, stating that a decree was lately made by the circuit court of the United States for the southern district of New York, in equity, bearing date the sixth day of May, in the year of our Lord one thousand eight hundred and fifty-seven, in a certain cause pending in said court, wherein said Edward M. Livermore and David B. Sexton were plaintiffs, and Stephen Waterman, Thomas A. Jenckes, and Alexander Farnum were defendants, which said decree and every part thereof it is alleged is erroneous, and ought to be reversed, and further stating that the matter in dispute in said cause, exclusive of costs, exceeds in value the sum of two thousand dollars;

And whereas the said Edward M. Livermore and David B. Sexton, by their said petition, pray that the said decree, together with the pleadings, depositions, and all other proceedings in said cause, may be sent to the said Supreme Court of the United States, and

be filed therein, on the first Monday of December, 1857, and that the said decree and every part thereof may be reversed, and that they may be restored to all things which they have lost by reason thereof—

You, the said Stephen Waterman, Thomas A. Jenckes, and Alexander Farnum, are therefore hereby cited to appear before the said Supreme Court of the United States, at the city of Washington, on the first Monday of December, 1857, to show cause, if any there be, why the said decree should not be corrected, and to do and receive what may appertain to justice to be done in the premises.

Given under my hand the 17th day of November, 1857.

SAM'L R. BETTS, [SEAL.]

I admit service of a copy of the foregoing citation, this 17th day of November, 1857.

C. A. SEWARD, *Defts' Sol'r.*

At a stated term of the circuit court of the United States of America for the southern district of New York, in the second circuit, held at the City Hall, in the city of New York, on the sixth day of May, in the year of our Lord one thousand eight hundred and fifty-seven:

Present, the honorable Samuel Nelson, an Associate Justice of the Supreme Court of the United States—

EDWARD M. LIVERMORE and DAVID B. SEXTON
vs.
THOMAS A. JENCKES, ALEXANDER FARNUM, and STEPHEN WATERMAN.

This cause having been heretofore brought on to be heard at final hearing on pleadings and proofs, and having been argued by Mr. A. J. Willard on the part of the plaintiffs, and by Mr. T. A. Jenckes and Mr. C. A. Seward on the part of the defendants, now, on consideration thereof, it is found and decided by the court that the property in the State of New York assigned by the defendant Waterman to the defendants Jenckes and Farnum, by the assignment mentioned in the pleadings herein, was taken into possession by said assignees, and converted into money, and the proceeds transferred to the State of Rhode Island, prior to the filing of the bill in this cause, and that the plaintiffs have no lien on said property, and that there was no fraud in fact in the making of said assignment; and it is therefore ordered, adjudged, and decreed, that the bill in this cause be and the same is hereby dismissed, with costs to the defendants against the plaintiffs to be taxed, and that the defendants have execution against the plaintiffs for such costs, according to the course and practice of this court.

A copy.

KENNETH G. WHITE, *Clerk.*

IN THE CIRCUIT COURT OF THE UNITED STATES
For the Southern District of New York.

EDWARD M. LIVERMORE and DAVID B. SEXTON
vs.
STEPHEN WATERMAN, THOMAS A. JENCKES, and ALEXANDER FARNUM. } In equity.

On the seventeenth day of January, 1856, the plaintiffs filed their bill of complaint, as follows:

Bill of Complaint.

To the honorable the judges of the circuit court of the United States for the southern district of New York, in the second circuit:

Your orators, Edward M. Livermore and David B. Sexton, bring this their bill of complaint against Stephen Waterman, Thomas A. Jenckes, and Alexander Farnum, of the city of Providence, in the State of Rhode Island, and citizens of said State, and thereupon your orators, humbly complaining, show unto your honors that the defendant, Stephen Waterman, and one Samuel Harris were lately copartners, and as such doing business in the city of Auburn, in the State of New York, under the firm name of Harris & Waterman.

That on the fourteenth day of January, 1854, the said Samuel Harris and Stephen Waterman, as such copartners, were justly indebted unto your orators in the sum of eleven thousand one hundred and thirty-nine dollars and sixty-five cents, upon four several promissory notes of said Harris & Waterman, given by them to your orators for merchandise theretofore sold and delivered by them to the said Harris & Waterman.

That being so indebted, your orators, on the fifth day of October, 1854, commenced an action in the supreme court of the State of New York against the said Harris & Waterman, to recover the amount of their said indebtedness, and on the 31st day of October, 1854, recorded a judgment therein against the said Harris & Waterman for the sum of $11,546 32, being the amount of said indebtedness, with interest and costs, which judgment was, on said last-mentioned day, duly docketed in the city and county of New York, and a transcript thereof duly filed in the clerk's office of the county of Greene, in which last-mentioned county the said Samuel Harris then resided and now resides.

That subsequently to the filing of said transcript in said Greene county aforesaid, an execution was issued upon said judgment to the sheriff of the said county of Greene, which has been returned by said sheriff wholly unsatisfied.

And your orators further show unto your honors, upon their in-

formation and belief, that a short time previous to the ninth day of March, 1854, and as they believe on or about the eleventh day of February, 1854, the copartnership firm of Harris & Waterman was dissolved, as well by the insolvency thereof as by the mutual consent and agreement of the members thereof, and thereupon the said defendant, Stephen Waterman, assumed and took upon himself the business of said firm and the settlement of the affairs thereof.

And your orators further show unto your honors, upon their information and belief, that on or about the said ninth day of March, 1854, the said Samuel Harris made and executed under his hand and seal, and delivered unto the defendant, Stephen Waterman, an instrument in writing, in the words and figures following, that is to say:

"Whereas I, Samuel Harris, of Leeds, Greene county, State of New York, have heretofore sold and conveyed to Stephen Waterman, of Providence, Rhode Island, all my right, title, and interest in and to all the estate and property called and known as the Owasco Lake mill, situate in Auburn, New York, and have also assigned and transferred to him all my interest in a certain bond and mortgage, made by James Fitton to me and the said Stephen Waterman, for the purchase-money due from said James Fitton for the one undivided fourth part thereof:

And whereas a copartnership was formed between me and said Stephen Waterman and James Fitton, for the purpose of carrying on the business of manufacturing woolen goods at said Owasco Lake mill, reference being had to contract of copartnership between us, dated the tenth day of August, one thousand eight hundred and fifty-three:

And whereas I, the undersigned, have become embarrassed in business, and am unable to proceed with said contract, and the liability for and responsibility of said business has been thrown upon said Stephen Waterman:

Now, in consideration of one dollar to me paid by the said Stephen Waterman, I hereby bargain, sell, convey, transfer, and deliver to said Stephen Waterman all my right, title, and interest in and to all the stock of wool at said Owasco Lake mill or elsewhere, also all goods manufactured or in process of manufacture, whether at said mill in the hands of commission merchants or elsewhere, all claims and demands due said firm, including the books of account thereof, and the right to collect the same, together with all other property of every kind and nature whatever and wherever situate belonging to said late firm—to have and to hold all the same to him, the said Stephen Waterman, his heirs, executors, and administrators, forever.

And I, the said Samuel Harris, hereby release and discharge the

said Stephen Waterman of and from all liability to account to me for the past business of the said firm.

In witness whereof, I have hereunto affixed my hand and seal this ninth day of March, in the year one thousand eight hundred and fifty-four."

SAMUEL HARRIS, [L. S.]

In presence of—
JOHN VAN VLECK.

And your orators further show unto your honors, upon their information and belief, that on the ninth day of March, 1854, the said Samuel Harris and Stephen Waterman, and one James Fitton, made and executed, under their respective hands and seals, an instrument in writing, in the words and figures following, to wit:

"Whereas a copartnership was heretofore formed and entered into by and between Samuel Harris, Stephen Waterman, and James Fitton, for the purpose of carrying on the manufacture of woolen goods, at the Owasco Lake mills, so called, in Auburn, Cayuga county, State of New York, under the name and firm of Harris & Waterman, and a copartnership agreement executed, bearing date the tenth day of August, one thousand eight hundred and fifty-three, reference being had thereto:

Now, it is mutually agreed by and between the undersigned that said agreement be and the same is hereby cancelled and annulled, and said copartnership is hereby dissolved; said dissolution to take effect on the eleventh day of February, one thousand eight hundred and fifty-four.

The said Stephen Waterman is hereby alone authorized to settle up the business, and sign the name of the said firm in settlement.

In witness whereof, the said parties have hereunto affixed their hands and seals this ninth day of March, 1854."

SAMUEL HARRIS, [L. S.]
STEPHEN WATERMAN, [L. S.]
JAMES FITTON, [L. S.]

In presence of—
JOHN VAN VLECK.

And your orators further show unto your honors, that prior to the said ninth day of March, 1854, the said Harris and Waterman were the proprietors of the mills known as the Owasco Lake mills, at Auburn, in this State, and were engaged in the manufacturing of cotton and woolen goods.

That they then owned a large amount of property at Auburn aforesaid, used for and in connection with their said business of manufacturing, consisting of machinery, tools, furniture, stock or material to be manufactured, and goods manufactured or in process of manufacture, and incomplete; and also owned a large amount

of manufactured goods, and other descriptions of property elsewhere within the State of New York.

That upon the sale and assignment from the said Samuel Harris to the defendant, Stephen Waterman, on the 9th of March, 1854, as hereinbefore set forth, the said defendant, Stephen Waterman, took possession of all and singular the said copartnership property and effects of said firm of Harris & Waterman.

That at the time of the dissolution of said copartnership of Harris & Waterman, and also on the said ninth day of March, 1854, the said firm of Harris & Waterman were largely indebted unto divers persons, banks, and mercantile firms in the city of New York, and elsewhere in the State of New York, in an amount far beyond the ability of said firm, or either of the members thereof, to pay, and were at that time and have since continued to be insolvent.

That after the sale and assignment from said Samuel Harris to said Stephen Waterman, as hereinbefore mentioned, the said defendant, Stephen Waterman, continued in the possession of said partnership property and effects, so belonging to the firm of Harris & Waterman, until on or about the 19th day of April, 1854, when he executed and delivered unto the defendants, Thomas A. Jenckes and Alexander Farnum, a deed of assignment, in the words and figures following, to wit:

"Know all men by these presents, that I, Stephen Waterman, of the city and county of Providence, State of Rhode Island, &c., in consideration of the sum of five dollars received to my full satisfaction of Thomas A. Jenckes and Alexander Farnum, both of the city and county of Providence, and State of Rhode Island, &c., and in further consideration of the uses, purposes, and trusts hereinafter mentioned and created, do hereby assign, transfer, and convey unto the said Thomas A. Jenckes and Alexander Farnum, their heirs and assigns, all my property and estate of every name and description, including all machinery and stock in mills, whether manufactured, unmanufactured, or in process of manufacture; all goods on hand or in transit, or in the hands of agents, factors, or commission merchants and others, and all cotton and wool and other merchandise belonging to me, and all bills, notes, bonds, accounts, and debts due me, with the evidences thereof; all my property in ships or other vessels, whether at sea or in port, and all stock and shares in incorporated companies, and all my other estate, both real and personal, in possession or action, reversion or remainder, and wherever and however situated, except such as is exempt from attachment by law: To have and to hold the same to them, the said Thomas A. Jenckes and Alexander Farnum, their heirs, executors, administrators, and assigns, and the survivor of them, and the heirs, executors, administrators, and assigns of such survivor, upon the special trusts, nevertheless, that they, the said Thomas A. Jenckes and Alexander Farnum, shall forthwith take possession

and seizure of all said assigned property and estate, and shall, within such convenient time as to them may seem meet, at public or private sale, for the best price that can be procured, convert all and singular the premises into money, and shall collect all and singular the debts due me, and shall apply and appropriate the net proceeds of such sales and collections in manner following, to wit:

The same said Thomas A. Jenckes and Alexander Farnum shall first pay all expenses of making and executing this deed of assignment, and of executing the trusts herein created, and shall retain to themselves a reasonable compensation for executing said trusts.

Second. The said Thomas A. Jenckes and Alexander Farnum shall next pay and satisfy the following debts and liabilities, to wit:

All debts due from me or from the late firm of Harris & Waterman to John H. Mason & Son, and to John N. Mason, of said Providence; and also all notes, drafts, or other paper signed by me or by said late firm, and drawn, endorsed, guarantied, or accepted by said John H. Mason & Son or John N. Mason, at my request, and for the accommodation of said late firm, or of myself; and also all paper made by other parties, and endorsed, guarantied, or accepted by said John H. Mason & Son or said John N. Mason, at my request, and for the accommodation of said late firm, or of myself; and also all *liabities* which said John H. Mason & Son or said John N. Mason have incurred in my behalf; and also two certain promissory notes, one signed by me, and dated January 11th, 1854, for the sum of twenty-five hundred dollars, payable six months after date, to William J. King & Co., of said Providence, and by them endorsed; and also one certain promissory note, signed by said William J. King & Co., dated February 23, 1854, for the sum of three thousand dollars, payable to me or my order six months after date, and by me endorsed, the said note having been made by said William J. King & Co., and loaned to me for my accommodation; also all sums due from me to Alexander Farnum, of said Providence, for money loaned to me and to the late firm of Harris & Waterman, amounting in the whole to the sum of twelve thousand four hundred and seventy-three dollars and thirty-one cents, part of which is otherwise secured; also four certain promissory notes, signed by me, and payable to John Farnum & Co., of Philadelphia, for the sum of twenty-five hundred dollars each, dated on the 13th, 18th, 23d, and 28th days of March, 1854, payable in six months after date thereof; also a debt due from me to Patrick Kerrigan, of Auburn, in the State of New York, for about six hundred dollars; also a debt due from me to James King, of Catskill, Greene county, New York, for about six hundred dollars; also a debt due from me to Daniel Fletcher, of said Auburn, for about one hundred and fifty dollars; also a certain note, dated February 23d, 1854, signed by me, and endorsed by John Porter, of said Auburn, for the sum of two thousand dollars; also all sums due from me to John Curtis, Barker & Baldwin, and William Hill & Co., of said Auburn; and

also the debt due from me to Russell & Smith, which has been contracted for work done and materials furnished since the first day of March, A. D. 1854; and also all sums due from me to laborers, bookkeepers, storekeepers, overseers, and clerks, and all sums due for store rent, office rent, and house rent, and for household expenses of myself and family; and all freight, bills, and all liens on any or all of said assigned property; and also the debt due from me to Robert Lewin, of New York, being any balance that might be due to him upon the settlement of joint consignments of cotton to Liverpool or elsewhere; also the debt due from me to Resolved Waterman, of said Providence, on settlement of a joint claim against the Mechanics' Manufacturing Company of Attleborough, being one-half of the loss on said claim; also a note dated February 1, 1854, signed by Benjamin F. Greene, for the sum of five hundred dollars, and loaned to me or to said firm of Harris & Waterman for their accommodation, at my request; also the debt due from me to S. & W. Foster, of said Providence, on settlement of losses upon purchases or sales of cotton on joint account, being one-half the loss in said transactions; together with all interest money due or to grow due upon any and all of the aforesaid claims, or owing thereon; and if said net proceeds and avails shall not be sufficient to pay and discharge the same in full, then such net proceeds and avails shall be distributed, pro rata, among said several creditors, in proportion to the amount of their respective claims.

Third. The said Thomas A. Jenckes and Alexander Farnum shall next after having done and performed the several things hereinbefore required out of the surplus remaining in their hands, if sufficient, pay and satisfy all the debts which I, the said Stephen Waterman, justly owe, whether the same are due and owing from me individually, or from the late firm of Harris & Waterman, of which I was a member, and whether I am liable to pay the same jointly with any other person or persons or as surety, guarantor, or endorser for any other person or persons.

Provided, however, that none of my said creditors named in the third class of this assignment shall be entitled to receive any dividend or benefit under this deed of assignment, unless they execute and deliver to my said assignees, within six months from the date hereof, a full release and discharge, under seal, of all their claims and demands against me, the assignor; but the dividends on the claims and demands of the creditors who do not execute such release shall be paid over to me, the said assignor, or to such person as I shall appoint.

And for the better execution of these presents and of the several trusts herein created, I do hereby nominate and appoint the said Thomas A. Jenckes and Alexander Farnum, their executors, administrators, and assigns, and the survivor of them, and the executors, administrators, and assigns of such survivor, my true and

lawful attorneys irrevocable, with the power to do and transact all acts, matters, and things which can or may be neccessary and proper in the premises, as fully and completely as I might have done if these presents were not executed, and with full power to employ and appoint agents and attorneys under them, and the same to remove at pleasure, to compromise any of said assigned claims and demands, and generally to do and cause to be done any and all matters and things which may be necessary to carry into effect the object of this assignment and the trusts hereby created.

And we, the said Thomas A. Jenckes and Alexander Farnum, in consideration of the premises, do hereby accept of this deed and of the trusts hereby created, and covenant with the said Stephen Waterman that we will faithfully execute the same.

In testimony whereof, we have hereto set our hands and seals this 19th day of April, A. D. 1854."

(Sgd.) STEPHEN WATERMAN, [L. S.]
(Sgd.) T. A. JENCKES, [L. S.]
(Sgd.) ALEX. FARNUM, [L. S.]

Signed, sealed, and delivered in presence of—
The words "under seal" interlined on bottom of line, page 5, before signing and sealing, and "me or to," bottom line, page 4.
(Sgd.) EDWARD R. ARNOLD,
(Sgd.) HENRY MARTIN.

And your orators further show unto your honors, that at the time of making the said assignment, the said Samuel Harris and Stephen Waterman were indebted to a large amount, and, among others, to your orators, in the amount for which judgment was subsequently obtained as aforesaid, and that the said creditors resided in the State of New York and elsewhere, and that your orators resided in the State of New York at the time last aforesaid, and at the time of the recovery of the said judgment against the said Harris & Waterman.

That said assignment was made by the said Stephen Waterman with intent to hinder, delay, and defraud the creditors of said firm of Harris & Waterman, and among others your orators, and to prevent them from satisfying their debts out of the property of the said Harris & Waterman, as by law they were and are entitled to do, in preference to the individual debts of said Stephen Waterman; and further, with the intent to remove the said property or the proceeds thereof beyond the jurisdiction of the courts of the State of New York, so that the said creditors residing within the State of New York as aforesaid would be deprived of their equitable lien thereon or right thereto, or might be compelled to accede to the unreasonable and unjust conditions of said assignment, by discharging their said debts in consideration of such dividends as they might receive from said assignees, or of losing all security for their said

debts—the said defendant, Stephen Waterman, intending by such means to act upon the fears of the said creditors, so as to compel them to become parties to the said assignment.

That thereupon, and claiming under said assignment, the said defendants, Jenckes and Farnum, took possession of all the aforesaid property of the said Harris & Waterman, and of the said Stephen Waterman, and also of certain other property, debts, and accounts belonging to the said Stephen Waterman by himself or jointly with the said Samuel Harris.

That all the said property so taken by the said Jenckes and Farnum was within the State of New York at the time the said assignment was made, and that the value thereof greatly exceeded the amount of the said debt due unto your orators.

That a portion of the said property, but what proportion or amount your orators cannot state, is still held by the said Jenckes and Farnum within the State of New York, claiming under the said assignment; and another portion of said property, or the proceeds derived from the sale thereof, has been removed by said Jenckes and Farnum from the State of New York. That shortly after the said assignees took possession of the said mills and property, being apprehensive that the creditors of the said Harris & Waterman would attach the property so as aforesaid assigned, and with the view of defeating such attachment, and preventing such creditors from reaching said property, the said assignees made a pretended sale of a considerable portion of said property, to an amount exceeding that due unto your orators as aforesaid, to certain persons doing business at Providence, Rhode Island, under the firm name and style of *of* Hill, Carpenter & Co.; that no actual sale was made to said Hill, Carpenter & Co., and no actual consideration paid by them for the said property and goods; that the said sale was a mere sham and cover for the said property, and was fraudulent and void as against the creditors of the said Harris & Waterman, and of said Stephen Warterman individually.

That subsequent to said last-mentioned pretended sale, the said Stephen Waterman continued to be employed in manufacturing goods at said mills, but he, the said Waterman, and the said assignees, gave out and pretended that the said mills were run by the said Waterman, as agent, for the account and benefit of the said Hill, Carpenter & Co., and that the said property at the said mills was the property and in possession of the said Hill, Carpenter & Co.; that such representations were false and fraudulent. That subsequently to the said pretended sale, the said Waterman, pretending to act as agent as aforesaid, but, in fact, acting for his own benefit and advantage, manufactured a large amount of goods out of stock and property purporting to have been assigned in and by said assignment, which said goods the said assignees took possession of, and they still hold the same, or the proceeds thereof, except as hereinafter stated. That the said assignees have, without any consideration

or value received from said Hill, Carpenter & Co., or from any one, placed some portion of the said before-mentioned goods, or the proceeds thereof, in the hands of the said Hill, Carpenter & Co., upon a private understanding or agreement with the said Hill, Carpenter & Co., and for the exclusive benefit of the said Hill, Carpenter & Co.; but your orators have no knowledge or information as to the nature of said agreement with Hill, Carpenter & Co.; that the said Hill, Carpenter & Co. have since failed and become insolvent, whereby some portion of the property so assigned by the said Stephen Waterman to said Jenckes and Farnum, or the proceeds thereof, have, through the misconduct of the said assignees, and by reason of such failure and insolvency, become wholly lost to the creditors of said Harris & Waterman.

And your orators further show unto your honors, that the said assignees now hold a large amount of the property assigned to them by the said Stephen Waterman, and of the proceeds of other property assigned to them by the said Stephen Waterman, and also promissory notes, bills, accounts, debts, and evidences of debt, assigned to them by the said Stephen Waterman, which said property was within the State of New York at the time of the executing and delivery of the said assignment, and which said debts and accounts, evidenced by said notes and bills or otherwise, were due to the said Harris & Waterman, or to the said Stephen Waterman individually, from persons residing within the State of New York at the time of such assignment, or have since arisen or become due out of the property and assets whereof possession was taken by the said assignees under the said assignment.

And your orators further show unto your honors, that the said assignment and transfer to the said assignees was and is altogether fraudulent and void as to your orators, creditors of the said Harris & Waterman, and that the debt of your orotors ought to be satisfied out of the same; that your orators have required the said assignees to pay and satisfy their said debt, and to apply to the payment thereof the property and assets of said Harris & Waterman, so assigned to them by the said Stephen Waterman; but the assignees have refused so to do, pretending that under and by virtue of said assignment your orators are not entitled to be paid out of the said property in their hands as aforesaid, under the said assignment, inasmuch as your orators have no prior claim thereto, or have not agreed to comply with the terms upon which, according to said assignment, it is claimed, that they can alone become entitled to a dividend out of the said property and assets.

And your orators further show unto your honors, that your orators, then being residents and citizens of the State of New York, on the 27th day of April, 1855, brought an action in the supreme court of the State of New York, then having jurisdiction of the parties and of the subject-matter of said action against these defendants and said Samuel Harris; that on or about the 21st day

of June, 1855, the said Jenckes and Farnum and Waterman, three of the defendants in said action, filed their petition in the said supreme court, praying that said action might be removed for trial into the next circuit of the United States to be held for the southern district of New York, and that thereupon, and on the said 21st day of June, 1855, it was ordered by the said supreme court that the prayer of said petition be and the same was thereby granted, and the said action was thereby removed for trial into the next circuit court of the United States to be held in the southern district of New York.

And your orators further show unto your honors, that afterwards, and, as they are informed and believe, in the month of September, 1855, the said defendants, Jenckes, Farnum, and Waterman, entered, or caused to be entered, their appearance in said action, in the said circuit court of the United States for the southern district of New York.

And your orators further show unto your honors, that since the commencement of said action in the said supreme court of the State of New York, your orator, David B. Sexton, has removed to and become and now is a resident and citizen of the State of Ohio.

And your orators further show unto your honors, that by the laws of the State of New York, your orators acquired a lien to be first satisfied out of the property and funds in the hands of the defendants, Jenckes and Farnum, and which might be discovered and made applicable to the payment of your orators' said judgment.

That by the laws of the State of New York, and particularly by a certain statute of said State, [2 R. S., 137, § 1,] wherein it is provided that every conveyance or assignment in writing or otherwise, of any estate or interest in lands, or in goods, or things in action, or of any rents or profits issuing therefrom, and every charge upon lands, goods or things in action, or upon the rents and profits thereof, made with intent to hinder, delay, or defraud creditors or other persons of their lawful suits, damages, forfeitures, debts, or demands, and every bond or other evidence of debt given, suit commenced, decree or judgment suffered, with the like intent as against the persons so hindered, delayed, or defrauded, shall be void, the said assignment from Waterman to Jenckes and Farnum was void, inasmuch as your orators charge that the same was made to hinder, delay, and defraud the creditors of the said Harris & Waterman and of said Waterman of their lawful suits, damages, forfeitures, debts, and demands.

That by the laws of the State of New York, the creditors of the said Harris & Waterman had an equitable lien to have their debts satisfied out of the property of the said firm of Harris & Waterman, and out of the proceeds thereof in the hands of said Waterman or of said Jenckes and Farnum; and

That by the laws of said State of New York, the creditors of said Harris & Waterman and of said Waterman, residing within

the said State, had, at the time of said assignment to said Jenckes and Farnum, an equitable right to have the property of Harris & Waterman, and of said Waterman, applied to the satisfaction of their demands, and that said assignment was and is in fraud of said equitable right.

In consideration whereof, and forasmuch as your orators can only have adequate relief in the premises in a court of equity, where matters of this nature are properly cognizable and relievable:

To the end, therefore, that the said Stephen Waterman, Thomas A. Jenckes, and Alexander Farnum may, upon their and each of their corporal oaths, and according to the best and utmost of their and each of their knowledge, remembrance, information, and belief, full, true, direct, and perfect answers make to such of the several interrogatories hereinafter numbered and set forth as by the direction hereinafter given he is required to answer, that is to say:

That the said defendant, Stephen Waterman, answer:

1. Whether the said Harris & Waterman were copartners doing business at Auburn, in the State of New York, as above stated?

2. Whether, on the 14th day of January, 1854, the said Harris & Waterman were indebted unto the complainants in the sum of $11,139 65, upon four several promissory notes of said Harris & Waterman, as above stated?

3. Whether an action was commenced thereupon against the said Harris & Waterman for the recovery of said sum of money, and whether, on the 31st day of October, 1854, a judgment was recovered therein against said Harris & Waterman, for the sum of $11,546 32, and docketed on the said last-mentioned day in the clerk's office in the city and county of New York; and whether a transcript of said judgment was duly filed in the office of the clerk of the county of Greene, and whether said Harris then resided in said county of Greene?

4. Whether an execution was issued upon said judgment to the sheriff of said county of Greene, and which has been returned by the sheriff wholly unsatisfied?

5. Whether a short time previous to the 9th of March, 1854, and whether on the 11th of February, 1854, or at what other or particular time, the said copartnership of Harris & Waterman was dissolved, as well by the insolvency thereof as by the mutual consent of the members thereof; and whether upon such dissolution the said Stephen Waterman assumed and took upon himself the business of the said firm and the settlement of the affairs thereof?

6. Whether on or about the 9th of March, 1854, or at what other and particular time, the said Samuel Harris made and executed under his hand and seal, and delivered unto the said Stephen Waterman, the assignment or instrument in writing, as above stated?

7. Whether on or about the said 9th day of March, 1854, or other and particular time, the said Harris & Waterman, and one

James Fitton, made and executed under their hands and seals the instrument in writing, as above stated?

8. Whether prior to the 9th day of March, 1854, and at what particular time, the said Harris & Waterman were proprietors of the mills known as the Owasco Lake mills, at Auburn, in the State of New York, and engaged in the manufacture of cotton and woolen goods; and whether they then owned a large amount of property at Auburn, and for and in connection with said business, as above stated: and whether at the time of the sale and assignment from Harris to Waterman, on the 9th of March, 1854, or at what other particular time, or shortly prior thereto, the said Waterman took possession of the said copartnership property and effects?

9. Whether at the time of the dissolution of said copartnership, and also on the said 9th of March, 1854, or at what particular time, the said Harris & Waterman were largely indebted unto divers persons in the State of New York, in an amount far beyond the ability of said firm, or of either of the members thereof, to pay; and whether they were not at those times and have since continued to be insolvent?

10. Whether after the sale and assignment from Harris to Waterman, the said Waterman continued in possession of the partnership property of said Harris & Waterman until on or about the 19th day of April, 1854, or until what particular time and date; and whether on said day, or at what other and particular time, the said Waterman executed and delivered unto the defendants, Thomas A. Jenckes and Alexander Farnum, the deed of assignment, as above stated?

11. Whether at the time of executing said last-mentioned assignment the said Harris and Waterman were indebted to a large amount, and among others to the complainants, in the amonnt for which they subsequently obtained judgment; and whether the creditors of said Harris & Waterman, or some, and how many of them, then resided in the State of New York; and whether the complainants then resided in the State of New York?

That the said defendants, Stephen Waterman, Thomas A. Jenckes, and Alexander Farnum, severally and respectively answer—

1. Whether the said Stephen Waterman, on the 19th day of April, 1854, or at what other and particular time, executed and delivered unto the defendants, Thomas A. Jenckes and Alexander Farnum, the deed of assignment, as above stated?

2. Whether the said last-mentioned deed of assignment was not made to hinder, delay, and defraud the creditors of the said Harris & Waterman, and amongst others the complainants, and to prevent them from satisfying their debts out of the said property of Harris & Waterman; and whether the same was not made with intent to remove the said property or the proceeds thereof beyond the jurisdiction of the courts of the State of New York, so that the creditors of said Harris & Waterman residing within the State of New York

would be deprived of their equitable lien thereon or right thereto, or might be compelled to accede to the unreasonable and unjust conditions of said assignment, or of losing all security for their said debts; and whether the said Waterman did not intend by such means to act upon the fears of the said creditors, so as to compel them to become parties to such assignment?

3. Whether the said defendants, Jenckes and Farnum, claiming under such assignment, took possession of all the said property of said Harris & Waterman, and also said Waterman's individual property?

4. Whether all the said property taken possession of by said Jenckes and Farnum was or not, at the time said assignment was made, within the State of New York; and whether the value thereof did not greatly exceed in amount the debt due the complainants; whether a portion of said property, and what portion thereof, is still held by said defendants, Jenckes and Farnum, within the State of New York, they claiming the same under said assignment; and whether another portion thereof, and what portion, or the proceeds derived therefrom, and what portion of such proceeds, has been removed by said Jenckes and Farnum from the State of New York; whether the said Jenckes and Farnum, being apprehensive that the creditors of said Harris & Waterman would attach said property, and with intent to defeat such attachment, and to prevent them from reaching the same, did not make a pretended sale of a considerable and what portion thereof, to persons doing business at Providence, Rhode Island, under the name of Hill, Carpenter & Co.; whether such sale was not without consideration, and if there was any consideration, what such consideration was, and the amount thereof, and the terms of such sale; whether such sale was not a mere sham and cover for said property; whether or not, subsequently to said last-mentioned pretended sale, the said Stephen Waterman continued manufacturing goods at said mills; and whether the said Waterman and the said assignees did not give out and pretend that the said mills were run by said Waterman as the agent and for the account and benefit of said Hill, Carpenter & Co.; and whether said representations were not false; whether subsequently to said pretended sale the said Waterman, pretending to act as agent as aforesaid, but in fact acting for his own benefit, did not manufacture a large amount of goods out of stock and property purporting to have passed under said assignment, which goods the said assignees took possession of, and still hold the same or the proceeds thereof; whether the said assignees have not without consideration placed some portion, and what portion, of said goods or of the proceeds, and what portion of the proceeds, in the hands of said Hill, Carpenter & Co., upon a private understanding or agreement with them, and what such private understanding or agreement was; whether the said Hill, Carpenter & Co. have not failed and become insolvent, whereby some portion of the property, and what portion,

so assigned by said Stephen Waterman to said Jenckes and Farnum, or the proceeds thereof, have become wholly lost to the creditors of said Harris & Waterman?

4. Whether the said assignees now hold a large amount of the property assigned to them by said Stephen Waterman, and what amount thereof, or what amount of the proceeds thereof; and whether they also hold promissory notes, bills, accounts, debts, and evidences of debt, assigned to them by said Waterman, which said property was within the State of New York at the time said assignment was made, and which said debts and accounts, evidenced by said notes and bills or otherwise, were due to said Harris & Waterman, or to said Waterman individually, from persons residing within the State of New York at the time of such assignment, or which have arisen or become due out of the said assigned property or assets?

5. Whether the said complainants have not required the said assignees to pay and satisfy their said debt, and to apply to the payment thereof the property and assets of said Harris & Waterman so assigned to them by said Waterman; and whether they have not refused so to do?

6. Whether the complainants, then being residents and citizens of the State of New York, on the 27th day of April, 1855, brought an action in the supreme court of the State of New York, then having jurisdiction of the parties and of the subject-matter of said action against the said defendants and the said Samuel Harris; whether on the 21st day of June, 1855, the said Jenckes, Farnum, and Waterman, three of the defendants in said action, filed their petition in the said supreme court, praying that said action might be removed for trial into the next circuit court of the United States to be held for the southern district of New York; and whether thereupon, and on the said 21st day of June, 1855, it was ordered by the said supreme court that the prayer of the said petition be and the same was thereby granted; and whether the said action was thereby, or how otherwise, removed into the next circuit court of the United States to be held in the southern district of New York?

7. Whether afterwards, and in the month of September, 1855, or at what particular time, the said defendants, Jenckes, Farnum, and Waterman, entered, or caused to be entered, their appearance in said action in the said circuit court of the United States for the southern district of New York?

8. Whether since the commencement of the said action in the said supreme court of the State of New York, the complainant, David B. Sexton, has removed to and become and now is a resident and citizen of the State of Ohio?

9. Whether by the laws of the State of New York, the complainants acquired a lien, to be first satisfied out of the property and funds in the hands of the defendants, Jenckes and Farnum, and

which might be discovered and made applicable to the payment of the complainants' judgment.

10. Whether by the laws of the State of New York, and particularly by a statute of said State, wherein it is provided that every conveyance or assignment in writing or otherwise, of any estate or interest in lands, or in goods, or things in action, or of any rents or profits issuing therefrom, and every charge upon lands, goods, or things in action, or upon the rents and profits thereof, made with intent to hinder, delay, or defraud creditors or other persons of their lawful suits, damages, forfeitures, debts, or demands, and every bond or other evidence of debt given, suit commenced, decree or judgment suffered, with the like intent as against the persons so hindered, delayed, or defrauded, shall be void, the said assignment from said Waterman to Jenckes and Farnum was void; and whether the same was not made to hinder, delay, and defraud the creditors of the said Harris & Waterman and of said Waterman of their lawful suits, damages, forfeitures, debts, and demands.

11. Whether by the laws of the said State of New York, the creditors of the said Harris & Waterman had not an equitable lien to have their debts satisfied out of the property of the said firm of Harris & Waterman, and out of the proceeds thereof in the hands of said Waterman or of said Jenckes and Farnum; and

12. Whether by the laws of said State of New York, the creditors of said Harris & Waterman and of said Waterman, residing within the said State of New York, had not, at the time of said assignment to Jenckes and Farnum, an equitable right to have the property of said Harris & Waterman, and of said Waterman, applied to the satisfaction of their demands, and whether the said assignment was not and is in fraud of such equitable right?

And that the said defendants may be decreed to answer the premises, and that the said deed of assignment and transfer to said assignees may be adjudged, declared, and decreed to be wholly fraudulent and void as to your orators and their aforesaid claim and demand against the said Harris & Waterman, and as it regards all the property assigned by the said Stephen Waterman, within the State of New York, at the time of said assignment, and all debts due at said last-mentioned time, or which have since become due, from persons residing within said State, or who resided therein at the time when said assignment was made.

And that it may further be adjudged, declared, and decreed that your orators, as creditors of said Harris & Waterman, have a lien upon so much of said property assigned by said Waterman to said Jenckes and Farnum as constituted a part of the copartnership property of Harris & Waterman, and have a preference and prior right to said property over the individual creditors of said Stephen Waterman, and to have their said judgment against said Harris & Waterman paid and satisfied out of said property.

And that an account may be directed to be taken of said assigned

property, and of all money which has been received by the said Jenckes and Farnum, or by any person on their behalf, or for their use, or in respect to the same; and that a receiver may be appointed to take charge of the property, debts, and assets so assigned by the said Stephen Waterman, and that the said defendants may be required to account for and deliver and pay over to such receiver all such property, debts, and effects, and all other property in the hands, possession of, or under the control of the said defendants, or either of them, in such manner as this honorable court shall direct, to the end that your orators may have reasonable satisfaction of their said judgment out of the same; and if the said property shall be insufficient to pay and satisfy the said judgment of your orators, with interest thereon, that the said defendants, Thomas A. Jenckes and Alexander Farnum, may be ordered and directed, by the order and decree of this honorable court, to satisfy and pay the said judgment to the extent of any property, debts, or effects so assigned by the said Stephen Waterman as were wrongfully transferred to the said Hill, Carpenter & Co., or otherwise wrongfully converted, transferred, or disposed of by said Jenckes and Farnum; and that the said defendants, Thomas A. Jenckes and Alexander Farnum, their counsellors, attorneys, solicitors, officers, or agents, may be restrained, by an injunction issuing out of and under the seal of this court, from transferring, assigning, parting with, or disposing of, or from attempting to transfer, assign, part with, or dispose of in anywise, any property, debts, claims, demands, and things in action which belonged to the said Samuel Harris and the defendant, Stephen Waterman, jointly, and which constituted the copartnership property, or part of the copartnership property, of said Harris & Waterman, and also any other property of said Harris and Waterman, or of said Waterman individually, which they or either of them owned at and before the execution and delivery of the assignment to the defendants, Jenckes and Farnum, and possession of which was taken by said Jenckes and Farnum under said assignment, and also and singular the proceeds or avails of such property or of any part thereof, or derived from all or any such property, debts, demands, claims, and things in action, and also all goods and other property manufactured or finished since the date of said assignment, by or for the benefit of said Jenckes & Farnum, or either of them, from or with the property or proceeds of property owned by said Harris & Waterman, or by said Waterman individually, at or before the execution and delivery of such assignment.

And that your orators may have such further relief, or may have such other relief, or both, as the nature of their case may require, and as may be agreeable to equity.

May it please your honors to grant unto your orators the writ of injunction issuing out of and under the seal of this honorable court, directed to the said Thomas A. Jenckes and Alexander Farnum, their counsellors, attorneys, solicitors, officers, and agents,

commanding them and each of them absolutely to desist and refrain from transferring, assigning, parting with, or disposing of, or from attempting to transfer, assign, part with, or dispose of in anywise any property, debts, claims, demands, and things in action which belonged to Samuel Harris and the defendant, Stephen Waterman, jointly, and which constituted the copartnership property or part of the copartnership property of said Harris & Waterman, and also any other property of said Harris & Waterman, or of said Waterman individually, which they or either of them owned at and before the execution and delivery of the assignment to Jenckes and Farnum, and possession of which was taken by said Jenckes and Farnum under said assignment, and also all and singular the proceeds or avails of such property, or of any part thereof, or derived from all or any such property, debts, demands, claims, and things in action, and also all goods and other property manufactured or finished since the date of said assignment, by or for the benefit of said Jenckes and Farnum, or either of them, from or with the property owned by said Harris & Waterman, or by said Waterman individually, at or before the execution and delivery of such assignment.

May it please your honors to grant unto your orators the writ of subpœna, issuing out of and under the seal of this honorable court, to be directed to the said Stephen Waterman, Thomas A. Jenckes, and Alexander Farnum, commanding them and each of them, by a certain day and under a certain penalty therein to be inserted, to be and appear before this honorable court, and then and there full, true, direct, and perfect answer make to all and singular the premises, and further to stand to, abide, and perform such further order, direction, and decree therein as may be agreeable to equity and good conscience.

And your orators will ever pray.

(Signed) E. M. LIVERMORE.

MONELL, WILLARD, & ANDERSON,
Complts.' Solicitors.

UNITED STATES OF AMERICA,
Southern District of New York,
City and County of New York, ss:

On this thirty-first day of December, 1855, before me, George W. Morell, a commissioner appointed by the circuit court of the United States in and for the southern district of New York, in the second circuit, under the laws of the United States, to take affidavits and acknowledgments of bail, &c., personally appeared the within-named Edward M. Livermore, who, being duly sworn, did depose and say that he has read the foregoing bill in equity, and knows the conetnts thereof, and that the same is true of his own knowledge, except as to the matters therein stated to be upon the

information and belief of the complainants, and as to those matters he believes it to be true.

GEO. W. MORELL,
U. S. Com'r South. Dist. New York.

The defendant Waterman answered separately, and his answer is as follows:

Answer of Waterman.

CIRCUIT COURT OF THE UNITED STATES
For the Southern District of New York.

EDWARD M. LIVERMORE and DAVID B. SEXTON
vs.
STEPHEN WATERMAN, THOMAS A. JENCKES, and ALEXANDER FARNUM. } In equity.

The separate answer of Stephen Waterman, one of the defendants herein, to the bill of complaint of Edward M. Livermore and David B. Sexton, complainants.

This defendant, now and at all times hereafter saving and reserving to himself all and all manner of benefit and advantage of exception to the manifold errors, imperfections, and insufficiencies in the complain'ts' said bill of complaint contained, for answer thereunto, or unto so much and such parts thereof as he, the said defendant, is advised is material for him to make answer unto, the said defendant, answering, says:

That he admits that heretofore, and until the time hereinafter stated, this defendant and the said Samuel Harris were copartners, and doing business as such in the city of Providence, and in the city of Auburn, in the State of New York, and in other places, under the firm name of Harris & Waterman.

And this defendant, further answering, admits that on the fourteenth day of January, 1854, the said firm of Harris & Waterman were indebted to the said complainants, as alleged in said bill of complaint.

And this defendant, further answering, admits that an action was commenced upon said indebtedness, as stated in said bill, but he has no knowledge or information sufficient to form a belief as to the recording of the judgment therein mentioned, nor as to the alleged docketing of the same, nor as to the alleged filing of a transcript thereof, nor as to the alleged issuing of an execution thereupon, nor as to the alleged return.

And this defendant, further answering, admits that, a short time previous to the ninth day of March, 1854, and on the eleventh day of February, 1854, the said firm of Harris & Waterman was dissolved by the mutual consent and agreement of the members thereof, and that thereupon this defendant assumed and took upon himself

the business of said firm, and the settlement of the affairs thereof, and that upon such dissolution, and on the ninth day of March, 1854, the said Harris executed and delivered the instrument in writing of that date set forth in the said bill of complaint; but this defendant denies that the said firm of Harris & Waterman was dissolved, as well by the insolvency thereof as by the mutual consent and agreement of the members thereof, and on the contrary thereof he avers that said dissolution was produced by the insolvency of the said Harris alone, and that at the time of such dissolution this defendant was possessed of a large substance and property in his own right, and believed himself to be then abundantly able to pay and discharge all the indebtedness of the said firm of Harris & Waterman, and to carry on the business of said firm in his own name and upon his own responsibility.

And this defendant, further answering, admits that on the ninth day of March, 1854, the said Samuel Harris and this defendant, and one James Fitton, executed under their respective hands and seals the instrument in writing of that date set out in said bill of complaint.

And this defendant, further answering, admits that prior to the said ninth day of March, 1854, the said Samuel Harris and this defendant were the proprietors of the mill known as the Owasco Lake mill, at Auburn, in the State of New York, and were there engaged in the manufacturing of cotton and woolen goods; and this defendant further admits that the said Harris and this defendant owned a large amount of property at Auburn aforesaid, which property was used by them in their business of manufacturing, and consisted of machinery, tools, furniture, stock, or material to be manufactured, or in process of manufacture and incomplete; and this defendant further admits that upon the sale and assignment by the said Harris to this defendant, this defendant took possession of all and singular the property and effects of the said firm of Harris & Waterman, and he avers that he thereafter held, owned, enjoyed, possessed, and used the same to and for his own use and benefit, and free from any liability to the said Harris, by way of account or otherwise, and so continued to hold and own the same until as hereinafter stated.

And this defendant, further answering, admits the indebtedness and insolvency of the said firm of Harris & Waterman, as charged in said bill, but he avers that at the time of said dissolution such insolvency was not known to this defendant.

And this defendant, further answering, admits that after the sale and assignments from the said Harris to this defendant, this defendant continued in possession of the property formerly belonging to said copartnership, until the 19th day of April, 1854, upon which day this defendant executed and delivered to the defendants, Thomas A. Jenckes and Alexander Farnum, the deed of assignment in said bill set out, and which said assignment had annexed to it certain

schedules in writing, to which this defendant craves leave to refer. And this defendant further avers that such possession by him was exclusive of any right or control of the said Harris, and of any liability to account to him for the said property in any way whatsoever.

And this defendant, further answering, admits that, at the time of making said assignment, this defendant was indebted to a large amount, both in his individual capacity and as a member of the late firm of Harris & Waterman, and that among the indebtedness of said late firm was a debt due to the complainants in this suit, but whether to the amount of said alleged judgment this defendant does not know and cannot state; and that this defendant was indebted to other persons residing in the State of New York and elsewhere; and that the said complainants resided as stated in said bill; but this defendant has no knowledge as to the indebtedness of the said Harris, or as to the residence of his said creditors.

And this defendant, further answering, denies that the said assignment was made by this defendant with intent to hinder, delay, and defraud the creditors of said firm of Harris & Waterman, and among others the complainants in this suit, and to prevent them from satisfying their debts out of the said property so assigned by this defendant to the said defendants, Jenckes and Farnum; and he further denies that the creditors of said Harris & Waterman were entitled to any such preference as that alleged in said bill; and he further denies that said assignment was made with the intent to remove the said property or the proceeds thereof beyond the jurisdiction of the courts of the State of New York, so that the creditors of the said Harris & Waterman residing within the State of New York would be deprived of their equitable lien thereon or right thereto, or might be compelled to accede to any unjust or unreasonable terms and conditions, or to the terms and conditions of the said assignment, by discharging their debts in consideration of such dividends as they might receive from the said assignees, or of losing all security for their said debts, or with any fraudulent or improper intent whatever; and he further denies that he intended by such or by any means to act upon the fears of his creditors, so as to compel them to become parties to the said assignment; and, on the contrary thereof, this defendant avers that at the date of the execution and delivery of the said assignment, this defendant and the said defendants, Jenckes and Farnum, were, and for a long time prior thereto had been, and still are, citizens of and residents in the State of Rhode Island, and that the said assignment was prepared by the defendant, Jenckes, and was executed and delivered in the city of Providence, in which city all of the parties to the said assignment then resided and still reside; and this defendant further avers, that immediately after the delivery of the said assignment, the said defendants, Jenckes and Farnum, as such assignees, took possession of and received from this defendant all his property and

estate of every kind and nature whatsoever; that said property was situated in the States of New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, and Maryland, and consisted of cotton and wool and woolen goods, and cotton and wool in the process of manufacture, and in all the stages of manufacture, and also of interests of vessels then at sea; that said assigned property was of great value, and required the immediate care and attention of the said assignees, Jenckes and Farnum; and the said assignees personally, and by persons employed by them, took immediate measures to have the said property properly protected and managed, and themselves took care of the same; that the said defendants, Jenckes and Farnum, as this defendant is informed and believes, have sold and converted into money the greater portion of the personal property assigned to them, and have applied the proceeds of such sales and collections to the payment of the expenses of executing the said assignment, and of the claims of the creditors preferred in the same, and the residue thereof is deposited in bank in said city of Providence; that the remainder of said assigned estate not yet converted into money consists principally of notes, drafts, choses in action, and an interest in real estate in said city of Providence; that said assignment was executed and delivered by this defendant, and was accepted by the defendants, Jenckes and Farnum, as this defendant believes, in good faith, and without any intent to hinder, delay, or defraud the creditors of this defendant; and this defendant further avers, that he executed and delivered the said assignment to the said defendants, Jenckes and Farnum, and the same was accepted by them, in good faith, and with the intent to effect an equitable and faithful distribution of the property and effects of this defendant among his said creditors; and this defendant further avers, that, as he is informed and believes, the said assignment is good and valid by the laws of the State of Rhode Island, and is in the form commonly used in that State for deeds of assignment for the benefit of creditors.

And this defendant, further answering, admits that the said defendants, Jenckes & Farnum, as such assignees as aforesaid, took possession of all the property of this defendant so assigned to them by him; and, upon information and belief, he denies that the said defendants, Jenckes and Farnum, or either of them, ever took possession of any property, debts, or accounts belonging to the said Samuel Harris, or which belonged to him jointly with this defendant; and he further denies that the said defendants, Jenckes and Farnum, or either of them, have, to the knowledge or belief of this defendant, ever received any property or proceeds of property belonging to the said Harris, or in which he was jointly interested with this defendant.

And this defendant, further answering, denies that all the property so taken possession of by the said Jenckes and Farnum, as such assignees as aforesaid, was within the State of New York at the

time the said assignment was made, and on the contrary thereof he avers, as he has hereinbefore averred, that at that time the said assigned property was in the several States before specified, and that portions of the same consisted of interests in vessels then at sea; and this defendant admits that the value of the property so assigned by him to the said defendants, Jenckes and Farnum, exceeded the amount of the alleged debt of the said complainants; and upon information and belief he further denies that any portion of the said assigned property is still held by the said Jenckes and Farnum within the State of New York, they claiming under the said assignment, except as hereafter stated; and this defendant admits that all of the said assigned property, or the proceeds of all of the said assigned property, within the said State of New York, at the time of the execution of the said assignment, has been taken by the said assignees to the said city of Providence, except as hereinafter stated.

And this defendant, upon information and belief, further avers that the said defendants, Jenckes and Farnum, as such assignees as aforesaid, have paid out to the preferred creditors of this defendant named in the said assignment a sum exceeding the amount they have received from the proceeds of the property which was in the State of New York at the date of the said assignment; and that the only property, as this defendant is informed and believes, which the defendants, Jenckes and Farnum, as such assignees, now hold in the State of New York, or which is due to them from persons residing in the State of New York, which they received under said assignment, and to which they are entitled, as the proceeds of property so received, are some old claims and securities of little or no value, and which the said assignees have found to be worthless at present.

And this defendant, upon information and belief, further avers that the said Jenckes and Farnum, as such assignees, have not, nor has either of them, removed or caused to be removed any of the said assigned property, or the proceeds thereof, from the State of New York, for the purpose of delaying, hindering, or defrauding the creditors of this defendant, or the complainants in this suit.

And this defendant, further answering, says that among the said property so assigned by him to the said defendants, Jenckes and Farnum, was a large amount of wool and other materials in the process of manufacture at the said Owasco Lake mill, and certain machinery also in said mill; that the said stock was in all stages of manufacture, and, owing to the embarrassment of this defendant in his business, the requisite supplies of raw materials had not been furnished in sufficient quantities to have the stock still on hand then worked up to advantage, and the immediate purchase of the required articles was necessary; that had not these additions then been made it would have been necessary to stop the mill at once,

and to discharge the workmen and employees, and to sell the property at auction, in small parcels, for a small portion of its cost value, as the manufacture of woolen goods was then in a depressed condition, and apprehensions of a still greater depression were then felt, which were subsequently realized: that at that time the said defendants, Jenckes and Farnum, had, as such assignees, no assets of said assigned estate which they could at once convert into money, and apply to the purchase of the needed articles, and to the payment of the said workmen and employees; that under these circumstances the said defendants, Jenckes and Farnum, made application, as such assignees, with the knowledge and consent of this defendant, to the principal creditors of this defendant, to purchase said stock and said materials in said mill, or to aid and advise them, the said Jenckes and Farnum, in effecting such sale; that many of the said creditors so applied to declined purchasing the said stock at any price or on any terms; that these offers were made to creditors in Providence, in New York, and in Philadelphia, and also to commission merchants and houses accustomed to make advances upon goods of the kinds manufactured at said mill; that the said Jenckes and Farnum then, with the full knowledge of this defendant, and of his said creditors living in Rhode Island, of all his said creditors who visited Providence for the purpose of inquiry into his affairs immediately after his failure and assignment, among which latter were some of this defendant's creditors residing in New York, and with the consent and at the request of the said creditors, and without objection from any, applied to the firm of Hill, Carpenter & Company, of said city of Providence, who were then in high credit, and who were carrying on a very large business in manufacturing woolen goods, and in supplying woolen mills in Massachusetts and Rhode Island, and offered to sell them said stock and materials; that after several interviews, in which the prices and terms were discussed, and at which the said Hill, Carpenter & Company declined giving more than thirty-three and one-third per cent. of the cost price of said property as then situated in the said mill, deeming that to be a much larger price than could be realized from said property if sold at auction, it was finally agreed between said firm and the said defendants, Jenckes and Farnum, as such assignees, with the knowledge, approval, and consent of such creditors who could be consulted at the time, that the said firm of Hill, Carpenter & Company should make such purchase upon the terms contained in a contract in writing then entered into, as this defendant is informed and believes, by and between the said defendants, Jenckes and Farnum, as such assignees, and the said Hill, Carpenter & Company, a copy of which is hereto annexed and marked A, and which said contract this defendant prays may be taken as a part of this his answer; that thereupon, as this defendant is informed and believes, the said defendants, Jenckes and Farnum, made and executed and delivered a bill of sale of all of said stock

and materials to the said Hill, Carpenter & Company, a copy of which is hereto annexed, and marked B, and which this defendant prays may be taken as part of this his answer; that thereupon, as this defendant is informed and believes, the said Hill, Carpenter & Company, in pursuance of the said contract, made, executed, and delivered to the said defendants, Jenckes and Farnum, as such assignees, a chattel mortgage upon all the property so sold to them, a copy of which is hereto annexed and marked C, and which this defendant prays may be taken as part of this his answer, and a true copy of which was, as this defendant is informed and believes, filed in the office of the clerk of the county of Cayuga, on the 27th day of May, 1854. And this defendant, upon information and belief, further avers that a portion of the purchase-money of the said stock and materials, to wit, the sum of five thousand dollars, was immediately paid by the said Hill, Carpenter & Company to the said defendants, Jenckes and Farnum, and by them applied to the payment of the sums due for labor and other preferred claims at said Auburn, and that for the remainder of said thirty-three and one-third per cent. upon said cost valuation, the said Hill, Carpenter & Company gave their promissory note, a copy whereof is hereto annexed, marked D, and is made part of this answer, and secured the said note by the execution and delivery of the said chattel mortgage, and that immediately after the execution and delivery of the said contract and bill of sale, the said defendants, Jenckes and Farnum, delivered possession of the said property to the said Hill, Carpenter & Company, and they took possession and full control of the same; and upon information and belief this deponent avers that the said sale was made and completed in good faith, and with the intent and desire on the part of the said defendants, Jenckes and Farnum, of realizing the greatest sum for said property that could be procured therefor, for the benefit of the creditors of this defendant, and that the said Hill, Carpenter & Company at once took possession of the said stock and materials so sold, and the management of the said business at the said Owasco Lake mill, and purchased the articles needed for closing out said stock to the best advantage, and conducted the said business at their sole risk, without the intervention or control of the said defendants, Jenckes and Farnum, in any manner or way whatever; and this defendant, upon information and belief, further avers that the sale so as aforesaid made to the said Hill, Carpenter & Company was not made through any apprehension that the creditors of this defendant would attach the said property, nor with any view of defeating such or any attachments, nor to prevent the creditors of this defendant from reaching the said property, nor was it made without any actual consideration paid by the said Hill, Carpenter & Company, nor was said sale a mere sham, nor was it made with any design to cover up said property or any part thereof, nor was it fraudulent or void as to any of the creditors of this defendant, but on the contrary thereof, this defendant in manner

aforesaid avers, that in making said sale the said Jenckes and Farnum acted in good faith, and made the same for the benefit of the creditors of this defendant, and for the best sum that could be procured, and that the same was not fraudulent.

And this defendant, further answering, avers that after the said sale of the said property to the said Hill, Carpenter & Company, this defendant was employed by them, as their agent, to attend to some of their business at said mill, and in connection with the sale of the goods there manufactured, as he was familiar with the details of such business, and was then out of employment, and, as this defendant is informed and believes, the said Hill, Carpenter & Company, immediately after the said purchase and sale, and after their so appointing this defendant as their agent, addressed to their correspondents letters advising them of such purchase and appointment, and among others addressed to Messrs. Richards & Van Wagenan, merchants, of the city of New York, the letter of which a copy is hereto annexed, marked E, and is made part of this answer, which letter this defendant is informed and believes was received by the said Richards & Van Wagenan on or about the 16th day of May, 1854. And this defendant further avers, that all representation ever made by him concerning his employment and agency in the said mill, and the ownership and possession of the said property in the said mill, were true, and not false or fraudulent; that this defendant did act as agent of and for the said Hill, Carpenter & Company, and transacted business on their account and for their benefit, and did not in said agency manufacture goods or otherwise act for his own benefit or advantage, otherwise than by earning a small salary paid to him for his services by the said Hill, Carpenter & Company. And this defendant further avers, that the said defendants, Jenckes and Farnum, did not take possession of or hold any goods manufactured at said mill by the said Hill, Carpenter & Company during this defendant's agency at said mill, nor did they, as this defendant is informed and believes, receive any part of the proceeds thereof otherwise than as the same came to their hands as and for payments by the said Hill, Carpenter & Company upon the amount due from them to the said Jenckes and Farnum upon the purchase aforesaid, nor did they place any portion of the property so assigned to them, or of the proceeds thereof, in the hands of the said Hill, Carpenter & Company, or in the hands of either of them, upon any private understanding or agreement with the said Hill, Carpenter & Company, or with either of them, without consideration or value received, and for the exclusive benefit of the said Hill, Carpenter & Company, or either of them. And upon information and belief, this defendant denies that any portion of the property so assigned by him to the said defendants, Jenckes and Farnum, or of the proceeds thereof, has, through the misconduct of the said defendants, or of either of them,

been lost to the creditors of this defendant, by reason of the insolvency of the said Hill, Carpenter & Company or otherwise.

And this defendant, further answering, upon information and belief, admits that the said defendants, Jenckes and Farnum, as such assignees as aforesaid, now hold the balance of the proceeds of the said assigned property and the choses in action belonging to said assigned estate, and that the same are now so held by them in the said State of Rhode Island, where all of the said defendants now reside.

And this defendant, further answering, denies that the said assignment and transfer by him to the said defendants, Jenckes and Farnum, was and is altogether fraudulent and void as to the said complainants, or as to any other person or persons; and he admits, upon information and belief, that the said defendants, Jenckes and Farnum, have never paid any portion of the said alleged debt of the said complainants, and he avers that they have no power under the said assignment to pay the same, or any part thereof, until the said complainants have complied with the legal requirements of the said assignment; that the said defendants, Jenckes and Farnum, are bound by the laws of the said State of Rhode Island to fulfil and carry out the requirements and trusts of the said assignment as they are therein specified, and that they could not, without contravening the same, pay the said complainants the amount of their said alleged debt, unless they executed and delivered the release required by the said assignment.

And this defendant further says, that, with one exception, all of the creditors of this defendant residing in the said State of Rhode Island, and many of the creditors residing out of the said State and in the State of New York and elsewhere, have complied with the conditions of the said assignment, and become parties thereto, by releasing this defendant, and that the claims of the said releasing creditors, and the dividends to which they are entitled, according to the provisions of the said assignment, far exceed in amount the sum which said assignees now hold, and such claims also exceed the value of all the assets of said assigned estate.

And this defendant, further answering, upon information and belief, avers that the said Jenckes and Farnum have, in good faith, in the execution of their trusts under the said assignment, collected and paid out, before the commencement of this suit, to the creditors of this defendant preferred in said assignment, various sums, exceeding in all the sum of fifty thousand dollars, and far exceeding the amount received by them from the sales of property in the State of New York, or of property which was at any time owned in the State of New York by this defendant.

And this defendant, further answering, admits that this suit was commenced against the said defendants in the supreme court of the State of New York, and that they removed the same into this court, and that their appearance therein in this court has been duly entered.

And this defendant, further answering, says that he has no knowledge or information sufficient to form a belief as to the removal or present residence of the complainant Sexton, as alleged in the said bill.

And this defendant, further answering, upon information and belief, denies that by the laws of the State of New York the said complainants acquired the first or any lien upon the said assigned property in the hands of the said defendants, Jenckes and Farnum, as in the said bill alleged.

And this defendant, further answering, denies, as he has hereinbefore denied, that the said assignment by this defendant to the said defendants, Jenckes and Farnum, was or is void, or that the same was made with intent to hinder, delay, and defraud the creditors of this defendant of their lawful suits, damages, forfeitures, debts, or demands, or of any other thing or right whatsoever. And he further denies, that by reason of anything contained in the statute of the State of New York in the said bill of complaint set out, the said assignment was or is void. And he further avers, that the said assignment, having been made by this defendant at his place of residence, in the city of Providence, in the said State of Rhode Island, of which he was and is a citizen, cannot in any manner or way be affected or defeated by the provisions of the said recited statute, or by the provisions of any statute of the State of New York whatever.

And this defendant, further answering, admits that, as he is informed and believes, by the laws of the State of New York, the partnership creditors of the said firm of Harris & Waterman had, so long as said firm existed, an equitable right or lien to have their debts discharged and satisfied out of the partnership property of the said firm, paramount and prior to the right of the individual creditors of the said Harris & Waterman, to have their debts satisfied out of the partnership property of the said firm; but this defendant avers that, by the same law, the said lien remained only so long as the said firm continued, and that by the dissolution of the said firm of Harris & Waterman, averred in said bill, and by the instrument of dissolution thereof therein set out, the said right or lien of the said partnership creditors was destroyed, and that there was no longer any partner of said firm remaining through whom the said right or lien could be enforced, nor any partnership property to which the same could attach; and this defendant further denies that the creditors of the said Harris & Waterman had or have any equitable lien to have their debts satisfied out of the property of the said Harris & Waterman so sold by the said Harris to this defendant, or out of the proceeds of the said property in the hands of this defendant prior to his said assignment, or out of the property or proceeds of the property so assigned by this defendant to the said defendants, Jenckes and Farnum.

And this defendant, further answering, denies that by the laws

of the State of New York the creditors of the said Harris & Waterman or of this defendant residing within the said State had, at the time of the said assignment to the said defendants, Jenckes and Farnum, an equitable right to have the property so assigned applied to the satisfaction of their demands; and he further denies that the said assignment was or is in fraud of any equitable or other right of any of said creditors.

And to the several interrogatories in said bill propounded to this defendant separately, this defendant maketh answer unto, and says:

1. To the first interrogatory, he says: That he has hereinbefore fully answered the said interrogatory.

2. To the second interrogatory, he says: That he has hereinbefore fully answered the said interrogatory.

3. To the third interrogatory, he says: That he has hereinbefore fully answered the said interrogatory, and has no knowledge or information sufficient to form a belief as to any of the matters inquired of in said interrogatory, except as to the residence of said Harris, which this defendant believes to have been in Greene county, in the State of New York.

4. To the fourth interrogatory, he says: That he has no knowledge or information sufficient to form a belief as to any of the matters inquired of in said interrogatory.

5. To the fifth interrogatory, he says: That he has hereinbefore fully answered the said interrogatory.

6. To the sixth interrogatory, he says: That he has hereinbefore fully answered the said interrogatory.

7. To the seventh interrogatory, he says: That he has hereinbefore fully answered the said interrogatory.

8. To the eighth interrogatory, he says: That he has hereinbefore fully answered the said interrogatory.

9. To the ninth interrogatory, he says: That he has hereinbefore fully answered the said interrogatory.

10. To the tenth interrogatory, he says: That he has hereinbefore fully answered the said interrogatory.

11. To the eleventh interrogatory, he says: That he has hereinbefore fully answered the said interrogatory, except as to the number of creditors of this defendant in the State of New York, which this defendant believes to have exceeded the number of twenty at the date of said assignment.

And to the several interrogatories propounded in the said bill to this defendant and the said defendants, Jenckes and Farnum, this defendant maketh answer, and says:

1. To the first interrogatory, he says: That he did execute and deliver the said assignment on the 19th day of April, 1854.

2. To the second interrogatory, he says: That the said assignment was not made with any such intent as that stated in said

interrogatory, and that he has hereinbefore fully answered said interrogatory.

3. To the third interrogatory, he says, upon information and belief: That the said defendants, Jenckes and Farnum, did not take possession of any property belonging to Harris & Waterman, and he further says, of his own knowledge, that the said Jenckes and Farnum did take possession, under said assignment, of all the property belonging to this defendant.

4. To the fourth interrogatory, he says: That all of this defendant's property so taken possession of by the said defendants, Jenckes and Farnum, was not, at the time the said assignment was made, within the State of New York, but at that time the said property was in the several States before specified; that the value of the said property did greatly exceed in amount the alleged debt of the complainants; that, as the defendant is informed and believes, some old claims of little or no value, and which the said defendants, Jenckes and Farnum, have found to be worthless at present, are still held by the said Jenckes and Farnum within the State of New York, they claiming the same under the said assignment; that all the residue of said property, or the proceeds thereof, has been removed by the said Jenckes and Farnum to the said State of Rhode Island, as is hereinbefore stated; that the said defendants, Jenckes and Farnum, did not make a sale of any of said assigned property to the said Hill, Carpenter & Co., from any such apprehension or with any such intent as stated in said fourth interrogatory; nor was any sale made by them to the said Hill, Carpenter & Co. without consideration; but this defendant avers that the sale made by the said defendants to the said Hill, Carpenter & Co. was made with the intent and for the purpose, and upon the terms and conditions, and for the consideration hereinbefore averred; that the said sale was not a mere sham and cover for said property; that this defendant did not continue to manufacture goods at said mill otherwise than as agent, as hereinbefore averred; that he did not, after said assignment, manufacture any goods at said mill for himself, or on his own account, or for his own benefit; that this defendant does not know and cannot state what the said defendants, Jenckes and Farnum, or either of them, gave out and pretended, but this defendant admits that he gave out and represented that the said mill was run by him, as the agent, and for the account and benefit of the said Hill, Carpenter & Company, and that such representations were true; that subsequently to said sale this defendant did not, pretending to act as agent aforesaid, but in reality acting for his own benefit, manufacture a large or any amount of goods out of stock and property purporting to have passed under said assignment; that the only goods manufactured out of said property at said mill, after said sale to the said Hill, Carpenter & Company, were manufactured by them; that, as this defendant is informed and believes, the only portion of the said

goods so manufactured at said mill, after said sale, or of the proceeds thereof, received by the said defendants, Jenckes and Farnum, was received by them from the said Hill, Carpenter & Company, to apply upon the indebtedness arising upon said sale; that as this defendant is informed and believes, the said defendants, Jenckes and Farnum, have not, without consideration, or upon no consideration, placed some or any portion of said goods, or of the proceeds thereof, in the hands of the said Hill, Carpenter & Company, or either of them, upon any private or other understanding or agreement with the said Hill, Carpenter & Company, or with either of them; and this defendant admits that the said Hill, Carpenter & Company have failed and become insolvent, but, upon information and belief, he avers that no portion of the property so assigned by this defendant to the said defendants, Jenckes and Farnum, or of the proceeds thereof, has, in consequence of such failure and insolvency of the said Hill, Carpenter & Company, become wholly or otherwise lost to the creditors of this defendant.

4. To the second fourth interrogatory, this defendant, upon information and belief, avers: That the said assignees now hold the balance of the said assigned property remaining after the payments hereinbefore averred to have been made, and that they also hold the choses in action belonging to said assigned estate, and that such balance and such choses in action are held by them at Providence aforesaid, but the amount of such balance this defendant does not know and cannot state; that, as this defendant is informed and believes, the only choses in action belonging to the said assigned estate now in the possession of the said defendants, Jenckes and Farnum, which were within the State of New York at the time the said assignment was made, or which were due to the said Harris & Waterman, and passed from that firm to this defendant upon the aforesaid dissolution of said firm, were due to this defendant individually from persons residing within the State of New York, at the time said assignment was made, or which have since become due to him out of said assigned property or assets, consist of certain claims and securities which this defendant has hereinbefore stated and described.

5. To the fifth interrogatory, he says: That he does not know and cannot state whether said complainants have requested the said assignees to pay and satisfy the alleged debt of the said complainants, or to apply to the payment thereof the assets of Harris & Waterman; but this defendant, upon information and belief, avers that the said defendants, Jenckes and Farnum, have never had possession of any of the property of Harris & Waterman, and that the said defendants, Jenckes and Farnum, have refused to pay the said alleged debt of the said complainants out of the said assigned estate, for the reasons hereinbefore stated.

6. To the sixth interrogatory, he says: He admits, upon information and belief, that this action was commenced and removed

by the order of the 21st of June, 1855, as is in said interrogatory stated.

7. To the seventh interrogatory, he says: That, as he is informed and believes, the appearance of all of the said defendants in this suit was duly entered in this court on the 11th day of September, 1855.

8. To the eighth interrogatory, he says: That he does not know and cannot state as to the present residence of the complainant Sexton.

9. To the ninth interrogatory, he says: That the complainants did not, by the laws of the State of New York, acquire any such lien as that stated in said interrogatory, or any lien whatever.

10. To the tenth interrogatory, he says: That neither by the laws of the State of New York, nor by the recited statute, was the said assignment by this defendant to the said defendants, Jenckes and Farnum, void; that such assignment was not made with any such intent as that stated in said interrogatory, nor was it made with any unlawful or improper intent whatever, and he avers that the said assignment was made with the intent and for the purpose hereinbefore stated.

11. To the eleventh interrogatory, he says: That the creditors of said Harris & Waterman had, after the dissolution of that firm, no such equitable right as that stated, nor any right whatever, over the property of this defendant.

12. To the twelfth interrogatory, he says: That the creditors of the said Harris & Waterman, and of this defendant individually, residing within the said State of New York, had not, at the time of said assignment, any equitable right to have the said assigned property applied to the satisfaction of their demands, and that such assignment is not in fraud of any such equitable right.

Without this, that there is any other matter, cause, or thing in the complainants' said bill of complaint contained, material and necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered, avoided, traversed, or denied, is true to the knowledge or belief of this defendant; all which matters and things this defendant is ready and willing to aver, maintain, and prove, as this honorable court shall direct, and hereby prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

STEPHEN WATERMAN.

HARRINGTON & DODGE,
Sol'rs for Waterman.
E. W. STOUGHTON, *of Counsel.*

UNITED STATES OF AMERICA,
Rhode Island District, ss:

Stephen Waterman, the defendant named in the above answer, and who has signed the same, being, on this eighth day of March,

one thousand eight hundred and fifty-six, duly sworn before me, did depose and say, that he has read the said answer, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters which are therein stated to be on his information or belief, and that as to those matters he believes the said answer to be true.

SAM'L W. PECKHAM,
Commissioner U. S. to take Affidavits and Bail for the District of Rhode Island.

Schedule A.

This agreement, made and entered into this first day of May, 1854, by and between Hill, Carpenter & Co., a firm composed of Paris Hill, Joseph Carpenter, William J. Cross, William S. Merill, and George H. Wilbur, all of the city and county of Providence, of the first part, and Thomas A. Jenckes and Alexander Farnum, both of said Providence, assignees of Stephen Waterman, of said Providence, of the second part, witnesseth:

That whereas the said parties of the second part have this day sold and conveyed to the parties of the first part certain goods, chattels, merchandise, materials, and property belonging to us, as assignees, and situated in the Owasco Lake mill, so called, in the city of Auburn, in the State of New York, as by reference to the bill of sale thereof and the schedule thereto annexed will more fully appear; and the said parties of the first part have purchased said property, and accepted of the conveyance thereof: Now, therefore, it is agreed between said parties that a particular inventory of all said property shall be made out, as soon as may be, and that the same shall be valued by competent parties at said mill, at the cost value thereof, as near as practicable, and that the said parties of the first part shall pay for the same the sums following, in manner following, viz: they shall pay to said parties of the second part, on the completion of said inventory, thirty-three and one-third per cent. of the valuation thereof as aforesaid, for which the said parties of the second part agree to accept the writs of said Hill, Carpenter and Company, bearing even date herewith, and payable in six months from date, secured by mortgage upon the property conveyed to them as aforesaid; and the said parties of the first part also further agree with said parties of the second part, that they, the said parties of the first part, will, from the date hereof, furnish at their own risk and expense the amount of stock of wool and materials of every description whatever, and the labor necessary to run out the stock now in process of manufacture, in whatever stage it may be, and the materials on hand for manufacture in, about, and at the mill estate formerly owned by said Waterman, at said Auburn, and now known as the Owasco Lake mill estate, and that they will cause all the same to be manufactured and disposed of as soon as may

be, and with as little expense as may be, at their exclusive cost and risk; that they will keep and exhibit to said parties of the second part a true and just account of the same, and of the proceeds of the sales of said property when manufactured, and at the close of said business they will then pay to said parties of the second part a further sum of money, in payment for the property conveyed to them as aforesaid, equal to the net proceeds of all said property, (first deducting the amount of the notes given by them as aforesaid, which is not liable to be reduced or diminished in any way or by any contingency, but is to remain absolute and to be paid in all events,) after deducting the cost and expenses which they shall have paid and assumed to pay in running out said stock, and the usual commissions of five per cent. and the payments aforesaid shall be in full satisfaction for the property conveyed as aforesaid.

And the said parties of the first part agree to keep said property insured as near the value thereof as may be practicable, and in case of loss by fire before the said stock shall be run out and the net proceeds thereof ascertained as aforesaid, they shall pay to the said parties of the second part such portion of the amount of said insurance money as they would then be entitled to if the said amount had been received from sales of manufactured property.

In testimony whereof, the said parties have hereunto set their hands and seals respectively, the day and year first above written.

T. A. JENCKES, *Assignee*, [L. S.]
ALEX. FARNUM, *Assignee*, [L. S.]
HILL, CARPENTER & CO., [L. S.]

Executed in presence of—
HENRY HOWARD.

Schedule B.

Know all men by these presents, that we, Thomas A. Jenckes and Alexander Farnum, both of the city and county of Providence, and State of Rhode Island, &c., assignees of Stephen Waterman, of said Providence, in consideration of the sum of twenty-five thousand dollars, and other valuable considerations, received to our full satisfaction of Paris Hill, Joseph Carpenter, William J. Cross, William S. Merril, and George H. Wilbur, all of said Providence, copartners under the firm of Hill, Carpenter & Company, have bargained, sold, and delivered, and by these presents do bargain, sell, and deliver, unto the said Hill, Carpenter & Company, all the personal property belonging to us, as assignees as aforesaid, in and about the Owasco Lake mill, so called, situated in the city of Auburn, and county of Cayuga, in the State of New York, excepting the machinery and tools in said mill, and other apparatus connected with the use of the same, and including in the property hereby conveyed all articles of the following description, viz: wool,

manufactured, unmanufactured, and in process of manufacture; drugs, dye-stuffs, acids, soap, cloths, reeds, harnesses, and other articles, more particularly described in the schedule hereto annexed:

To have and to hold the same, with all the rights thereto belonging, to them, the said Hill, Carpenter & Company, their executors, administrators, and assigns, forever.

In testimony whereof, we have hereunto set our hands and seals this first day of May, A. D. 1854.

T. A. JENCKES, [L. S.]
ALEX. FARNUM, [L. S.]
Assignees of S. Waterman.

Executed in presence of—
HENRY HOWARD.

Inventory of stock in Owasco Lake mill, Auburn, April 22d, 1854.

DYE-HOUSE.

1 cask cream tartar,
½ cask French madder,
1 bbl. by chro. potash,
100 lbs. by chro. potash,
150 blue vitriol,
50 lbs. cud bear,
Peach-wood,
1 carboy oil vitriol,
682 lbs. cam-wood,
542 lac dye,
32 bags sumac,
600 soda ash,
613 sanders,
429 hypernich,
50 extract quixit bark,
500 lbs. fustic,
32 bags logwood,
¾ bbl. prussiate potash,
1 case indigo,
2 casks copperas,
2 casks No. 1 madder,
250 lbs. No. 1 madder,
200 lbs. brimstone,
1 bbl. cud bear,
300 lbs. argols,
12 carboys muriatic acid,
606 basswood,
2 casks madder,
½ cask sal soda,
2 bbls. salt,
1 cask maple bark,
20 "gro." tin,
600 alum,
1057 "gro." logwood,
204 lbs. fustic bark,
4330 lbs. woad,
24 lbs. cochineal.

Blue vats; 2 blue vats, new; 2 blue vats, half new;
8 yds. wringing cloth; wheat bran; acids in jars.

STORE-HOUSE.

5 bbls. fullers' soap; 6 scouring soap;
4 sperm oil; 3 rosin oil; 14 kegs nails.

FINISHING-ROOM.

3500 yds. broad cotton warps in grease.
4940 " broad flannels, scoured.
960 " in fulling state.
1149 " gigs and shears.

2858

4700 yds. croped.
2980 " process steaming.
1920 " blks. and brs. colored.
500 " ready for press.
440 " in press.

Fancies.

1446 yards in grease, all wool.
1038 " " " Cot. & W. chks.
222 " fulling C. & W. tweeds.
541 " " C. & W. chks.
1668 " gig and steam, all wool.
807[1] " fancies on T. bars, C. & Wool.
423[1] " do. do. all wool.
1134[3] " fancies ready for press, C. & W.
601[2] " do. do. do. all wool.
176[1] " ready to shear, all wool.
262[1] " do. do. C. & W.
281 " in press, all wool.
72[2] " do. cot. & wool.
73 " do. cot. & wool tweeds.

Cloths ready to ship.

2790 yds. broads.
1117[3] " cassimere wool.
82[3] " imp. cassimere wool,
325 " cotton cass.
178 " imp. do.

SORTED WOOL IN SORTING-ROOM.

136 P. K. lock.
1918 No. 1.
2140 " 2.
424 " 3.
452 " 4.
689 " 5.
3487 " 6.
237 " 7.
2851 " 8.
1954 fine fribs.
2788 coarse do.
Carpenter lot in store-house.
3929 } 7142 net.
3271 }
Henington & Warren lot, 1102.
105 county lot blk. wool, 150.
400 lbs. sorted wool in dye-house.
685 } 844 black fleece in store-house.
159 }

Mem. 4—Wool in dye-house and picking-room.
" do. per statement mem. No. 4, 20,751.
1 case, all wool, cass. shipped, 24 case, 262–548 yds.
Mem. 5—78 yds. brds., remnants.
" " 20 " fancy cass.
" 6—Carding, spinning, dressing, and weaving yarn.
Wool and cloth in process manufacturing, 46,478 yds.
292 lbs. white cotton.
384 " brown do.
2258 " white do.
2 sets card tubes.
150 thousand teazles.
2000 lbs. wool strings.
2000 " tag or sorting locks.
39 carboys.
2000 lbs. gig and shear flocks.
Goods on hand in store.
Reeds, hampers, shuttles, blacksmith's tools, box boards, pipes and pipe fixtures, and patterns for machinery, tools in and about the mill, and iron for repairing.
Office furniture, desks, safe, &c.

Including in the above all goods finished and shipped on or before this day, May 1st, 1854, subject to a lien of fifty-five hundred dolls. for drafts drawn by assignees and accepted by consignees.

STATE OF RHODE ISLAND,
County of Providence, ss:

On the twenty-second day of May, 1854, before me came Thomas A. Jenckes and Alexander Farnum, to me known to be the individuals described in and who executed the annexed instrument in writing, and to be both residents of said State of Rhode Island, and severally acknowledged that they executed the same.

JEROME B. KIMBALL,
Justice of the Peace.

STATE OF RHODE ISLAND,
County of Providence, ss:

I, Thomas S. Anthony, clerk of the supreme court of said county, do hereby certify that Jerome B. Kimball, whose name is subscribed to the foregoing certificate of acknowledgment, is a resident of said county, and was at the time of taking such acknowledgment a justice of the peace, and as such duly authorized by the law of the State of Rhode Island to take the proof of acknowledgment of deeds, and that I am well acquainted with the handwriting of the said Jerome B. Kimball, and verily believe that the signature to said certificate of acknowledgment is genuine.

[L. S.] Witness my hand and official seal, this 22d day of May, A. D. 1854. THOS. ANTHONY, *Clerk.*

Schedule C.

Know all men by these presents, that we, Paris Hill, Joseph Carpenter, William J. Cross, William S. Merrill, and George H. Wilbur, all of the city and county of Providence, and State of Rhode Island, &c., copartners transacting business under the firm of Hill, Carpenter & Company, for and in consideration of the sum of nineteen thousand three hundred and forty-six $\frac{42}{100}$ dollars, to us paid by Thomas A. Jenckes and Alexander Farnum, both of said Providence, assignees of Stephen Waterman, of said Providence, the receipt whereof we do hereby acknowledge, do hereby give, grant, bargain, sell, and convey unto them, the said Thomas A. Jenckes and Alexander Farnum, assignees as aforesaid, all the goods, chattels, and articles of personal property contained in the schedule annexed hereto, and made part of this deed, situated in the Owasco Lake mill, so called, in the city of Auburn, county of Cayuga, and State of New York, and in the hands of commission merchants or agents, and in transit to or from said mill, and also all property that may be added thereto in the course of the business of said mill:

To have and to hold the same to them, the said Thomas A. Jenckes and Alexander Farnum, assignees as aforesaid, their heirs, executors, administrators, and assigns, and the survivor of them, and the heirs, executors, administrators, and assigns of such survivor, forever, by these presents:

Provided, however, and this deed is upon this condition, that if we, the said Paris Hill, Joseph Carpenter, William J. Cross, William S. Merrill, and George H. Wilbur, copartners as aforesaid, shall well and truly pay to the said Thomas A. Jenckes and Alexander Farnum, assignees as aforesaid, a certain promissory note bearing even date with these presents, for the sum of nineteen thousand three hundred and forty-six $\frac{42}{100}$ dollars, signed by us, the said Hill, Carpenter & Company, payable to ourselves, and endorsed and delivered to the said Thomas A. Jenckes and Alexander Farnum, assignees as aforesaid, according to the full tenor and effect thereof, and also all drafts that may be drawn by us, the said Hill, Carpenter & Company, or by the said Stephen Waterman, as our agent, on commission merchants or agents, on account of goods manufactured at said mill, and endorsed and delivered to said Thomas A. Jenckes and Alexander Farnum, assignees as aforesaid, and also all sums which we do now or which we may hereafter owe to the said Thomas A. Jenckes and Alexander Farnum, assignees as aforesaid, whether the same may be due on loan, note, contract, account, or otherwise, then this deed shall be void; otherwise shall remain in full force and effect.

In testimony whereof, we have hereunto set our hands and seals, this first day of May, A. D. 1854.

PARIS HILL, [L. S.]
JOSEPH CARPENTER, [L. S.]
WM. J. CROSS, [L. S.]
W. S. MERRILL, [L. S.]
GEORGE H. WILBUR, [L. S.]

Signed, sealed, and delivered in presence of—
JEROME B. KIMBULL.

DYE-HOUSE.

1 cask cream tartar,
½ cask French madder,
250 lbs. No. 1 madder,
100 lbs. bychro. potash,
150 blue vitriol,
50 lbs. cud bear,
Peach wood,
12 carboys muriatic acid,
606 lbs. basswood,
2 casks madder,
½ cask sal soda,
2 bbls. salt,
1 cask maple bark,
50 extract quixit bark,
500 lbs. fustic,
32 bags logwood,
¾ bbl. prussiate potash,
1 case indigo,
24 lbs. cochineal,
2 blue vats, new,
8 yds. wringing cloth,
2 casks copperas,
2 " No. 1 madder,
1 bbl. bychro. potash,
200 lbs. brimstone,
1 bbl. cud bear,
300 lbs. argols,
1 carboy oil vitriol,
682 lbs. camwood,
542 lbs. lac dye,
32 bags sumac,
600 soda ash,
429 hypernich,
613⅔ sanders; 20⅔ gro. tin,
600 alum,
1057 gro. logwood,
204 lbs. fustic bark,
4330 lbs. woad,
92 lbs. indigo,
Blue vats,
2 blue vats, half worn,
Wheat bran; acids in jars.

STORE-HOUSE.

5 bbls. fuller's soap,
4 bbls. sperm oil,
6 bbls. scouring soap,
3 bbls. rosin oil; 14 kgs. nails.

FINISHING-ROOM.

3500 yds. broad cotton warps in grease.
4930 " broad flannels, scoured.
960 " in fulling state.
1140 " gigs and shears.
4700 " croped.
2980 " process steaming.
1920 " blk. and bws., colored.
500 " ready for press.
440 " in press.

Fancies.

1446 yds. in grease, all wool.
1031 " " " cotton and wool chks.
222 " fulling C. and W. tweeds.
541[1] " " C. and W. chks.
1668[1] " gig and steam, all wool.
807[1] " fancies, on T. bars, C. and wool.
423[1] " do. all wool.
1134[3] " do. ready for press, C. and W.
601[2] " do. do. do. all wool.
176[1] " ready to shear, all wool.
262[1] " do. do. C. and W.
281 " in press, all wool.
72[2] " do. cot. & wool.
73[2] " do. cot. & W. tweed.
2790[2] " broads.
1117[3] " cassimeres, wool.
82[3] " imp. cassimeres, wool,
325 " cotton cassimeres.
128 " imp. do.

SORTED WOOL IN SORTING-ROOM.

136 P. K. lock.
1918 No. 1.
2140 " 2.
424 " 3.
452 " 4.
689 " 5.
3487 " 6.
237 " 7.
2851 " 8.
1954 fine fribs.
2788 coarse do.
Carpenter lot in store-house.
3967 } 7,142 net.
3271 }
Hennington & Warren lot, 1163.
105 county lot blk. wool, 1.50.
400 lbs. sorted wool in dye-house.
685 } 844 black fleece in store-house.
159 }
Mem. 4—Wool in dye-house and picking-room, per statement mem. No. 4, 20,751.
1 case, all wool, cassimeres, shipped, 24 case, 262, 548 yds.
Mem. 5—78 yds. brds., remnants.
" " 20[2] fancy cass.
Carding, spinning, dressing, and weaving yarn.
Wool and cloth in process manufacturing, 46,478 yds.

292 lbs. white cotton.
384 " brown cotton.
1258 " white cotton.
2 sets card tubes.
150 thousand teazles.
2000 lbs. wool strings.
2000 " tag or sorting locks.
39 carboys.
2000 lbs. gig and shear flocks.
Goods on hand in store.
Reeds, harnesses, shuttles, blacksmith's tools, box boards, pipes and pipe fixtures, and patterns for machinery, tools in and about the mill, and iron for repairing.
Office furniture, desks, safe, &c.

Including in the above all goods finished and shipped on or before this day, May 1st, 1854, subject to a lien of fifty-five hundred dollars, for drafts drawn by assignees and accepted by consignees.

Schedule D.

$19,346 42. PROVIDENCE, *May* 1*st*, 1854.

Six months after date we promise to pay to the order of ourselves nineteen thousand three hundred and forty-six $\frac{42}{100}$ dollars, for value received. HILL, CARPENTER & CO.

No. 399, due Nov. 1, '4.

Endorsed: Hill, Carpenter & Co.

Schedule E.

PROVIDENCE, *May* 15, 1854.

Messrs. RICHARDS & VAN WAGENEN.

GENTS: Having made an arrangement to run the Owasco Lake mill, we shall send you the goods, and wish you to dispose of them to the best possible advantage.

We have appointed Stephen Waterman as our agent in the management of the business of the mill, and you will please accept any drafts he may draw, as agent of said mill, on account of goods you receive from the mill. Yours, truly,

HILL, CARPENTER & CO.

The defendants, Jenckes and Farnum, answered jointly, and their answer is as follows:

Answer of Jenckes and Farnum.

CIRCUIT COURT OF THE UNITED STATES
For the Southern District of New York.

EDWARD M. LIVERMORE and DAVID B. SEXTON
vs.
STEPHEN WATERMAN, THOMAS A. JENCKES, and ALEXANDER FARNUM. } In equity.

The several answers of Thomas A. Jenckes and Alexander Far-

num, two of the defendants herein, to the bill of complaint of Edward M. Livermore and David B. Sexton, complainants.

These defendants, now and at all times hereafter saving and reserving to themselves severally and respectively all and all manner of benefit and advantage of exception to the manifold errors, uncertainties, imperfections, and insufficiencies in the said complainants' said bill of complaint contained, for answer thereunto, or unto so much and such parts thereof as they, the said defendants, are advised are material for these the said defendants to make answer unto, they, the said defendants, each answering for himself, and not one for the other, severally answering, say:

That on the 19th day of April, 1854, the said defendant, Waterman, executed and delivered to these defendants the deed of assignment in said bill set forth, to the original of which, together with certain original schedules thereto annexed, these defendants crave leave to refer in court.

And these defendants, further answering, in manner aforesaid, deny that the said assignment was made by the said defendant, Waterman, with intent to hinder, delay, and defraud the creditors of the said firm of Harris & Waterman, and among others the complainants in this suit, and to prevent them from satisfying their debts out of the said property so assigned to these defendants by the said defendant, Waterman; and they further deny that the creditors of the said Harris & Waterman were entitled to any such preference as that alleged in the said bill; and they further deny that said assignment was made with the intent to remove the said property or the proceeds thereof beyond the jurisdiction of the courts of the State of New York, so that the creditors of the said Harris & Waterman residing within the State of New York would be deprived of their equitable lien thereon or right thereto, or might be compelled to accede to any unjust or unreasonable terms and conditions, or to the terms and conditions of the said assignment, by discharging their debts in consideration of such dividends as they might receive from the said assignees, or of losing all security for their said debts, or with any other fraudulent or improper intent whatever; and they further deny that the said defendant, Waterman, intended by such or by any means to act upon the fears of his creditors, so as to compel them to become parties to the said assignment; and on the contrary thereof, these defendants aver, that at the date of the execution and delivery of the said assignment, the said Waterman and these defendants were, and for a long time prior thereto had been, and still are, citizens of and residents in the State of Rhode Island, and said assignment was prepared by the defendant, Jenckes, and was executed and delivered in the city of Providence, in which city all of the parties to the said assignment then resided and still reside; that immediately after the delivery of the said assignment, the said assignees took possession of and received from the said Waterman all his property and estate of every kind and nature

whatsoever; that said property was situated in the States of New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, and Maryland, and consisted of cotton and wool and woolen goods, and cotton and wool in the process of manufacture, and in all the stages of manufacture, and also of interests in vessels then at sea; that said assigned property was of great value, and required the immediate care and attention of the said assignees personally; and the said assignees personally, and by persons employed by them, took immediate measures to have the said property properly protected and managed, and themselves took care of the same; that the said assignees have sold and converted into money the greater portion of the personal property assigned to them, and have applied the proceeds of such sales and collections to the payment of the expenses of executing the said assignment, and of the claims of the creditors preferred in the same, and the residue thereof is deposited in bank in said city of Providence; that the remainder of the said assigned estate not yet converted into money consists principally of notes, drafts, choses in action, and an interest in real estate in said city of Providence; that said assignment was executed and delivered by the said defendant, Waterman, as these defendants believe, and was accepted by these defendants in good faith, and without any intent to hinder, delay, or defraud the creditors of the said Waterman, as is in said bill averred, and as is hereinafter more specifically denied; and on the contrary thereof, these defendants aver that, as they believe, the said defendant, Waterman, executed and delivered the said assignment, and these defendants received the same, with the intent to effect an equitable and faithful distribution of the property and effects of the said Waterman among his said creditors; and these defendants aver that they have endeavored, in good faith, and to the best of their ability, to execute the trusts declared in the said assignment in such manner as would be most advantageous to the creditors of the said Waterman.

And the said defendant, Jenckes, further avers, that he is a counsellor of the supreme court of the State of Rhode Island, and that the said assignment is good and valid by the laws of that State, and is in the form commonly used in that State for deeds of assignment for the benefit of creditors.

And these defendants, further answering in manner aforesaid, admit that they, as such assignees as aforesaid, took possession of all the property of the said defendant, Waterman, but they deny that they or either of them ever took possession of any property, debts, or accounts belonging to the said Samuel Harris, or which belonged to him jointly with the said defendant, Waterman; and they further deny that they or either of them have ever received any property or proceeds of property belonging to the said Harris, or in which he was jointly interested with the said Waterman.

And these defendants, further answering in manner aforesaid, deny that of all the property so taken possession of by them, as

such assignees as aforesaid, was within the State of New York at the time the said assignment was made, and on the contrary thereof they aver, as they have hereinbefore averred, that at that time the said assigned property was in the several States before specified, and that portions of the same consisted of interests in vessels then at sea; and they admit that the value of the property so assigned by the said Waterman exceeded the amount of the alleged debt of the said complainants; and they deny that a portion of the said assigned property is still held by them within the State of New York, claiming under the said assignment, except as hereinafter stated; and they admit and aver that all of the property, or proceeds of all of the said assigned property, within the said State of New York, at the time of the execution of the said assignment, has been taken by the said assignees to the said city of Providence, except as hereinafter stated; and these defendants further aver that they, as such assignees as aforesaid, have paid out to the preferred creditors of the said Waterman named in the said assignment a sum exceeding the amount they have received from the proceeds of property which was in the State of New York at the date of the said assignment, and that the only property which the said assignees now hold in the State of New York, or which is due to them from persons residing in the State of New York, which they received under said assignment, and which they are entitled to as the proceeds of property so received, are some old claims and securities of little or no value, and which the said assignees have found to be worthless at present; and these defendants further aver that they, as such assignees, have not, nor has either of them, removed or caused to be removed any of the said assigned property, or of the proceeds thereof, from the State of New York, for the purpose of delaying, hindering, or defrauding the creditors of the said Waterman, or the complainants in this suit.

And these defendants, further answering, say, that among the said property so assigned by the said defendant, Waterman, to them was a large amount of wool and other materials in the process of manufacture at the Owasco Lake mill, at Auburn, in the State of New York, and certain machinery also in said mill; that the said stock was in all stages of manufacture, and, owing to the embarrassment of the said Waterman in his business, the requisite supplies of raw materials had not been furnished in sufficient quantities to have the stock still on hand then worked up to advantage, and the immediate purchase of the required articles was necessary; that had not these additions then been made, it would have been necessary to stop the mill at once, and discharge the workmen and employees, and to sell the property at auction, in small parcels, for a small portion of its cost value, as the manufacture of woolen goods was then in a depressed condition, and apprehensions of a still greater depression were then felt, which were subsequently realized; that at that time the said defendants, Jenckes and Farnum, had, as such assignees,

no assets of said assigned estate which they could at once convert into money, and apply to the purchase of the needed articles, and the payment of the said employees; that under these circumstances these defendants, as such assignees, with the knowledge and consent of the said defendant, Waterman, made application to the principal creditors of the said Waterman to purchase said stock and said materials in said mill, or to aid and advise them, the said Jenckes and Farnum, in effecting such sale; that many of the said creditors so appealed to declined purchasing said stock at any price or on any terms; that these offers were made to creditors in Providence, in New York, and in Philadelphia, and also to commission merchants and houses accustomed to make advances upon goods of the kinds manufactured at the said Owasco Lake mill; that the said Jenckes and Farnum then, with full knowledge of the said defendant, Waterman, and of all his said creditors living in Rhode Island, and of all his said creditors who visited Providence for the purpose of inquiring into his affairs immediately after his failure and assignment, among which latter were some of his creditors residing in New York, and with the consent and at the request of the said creditors, and without objection from any, applied to the firm of Hill, Carpenter & Company, of said city of Providence, who were then in high credit, and who were carrying on a very large business in manufacturing woolen goods, and in supplying woolen mills in Massachusetts, Rhode Island, and Connecticut, and offered to sell them said stock and materials; that after several interviews, at which the prices and terms were discussed, and at which the said Hill, Carpenter & Company declined giving more than thirty-three and one-third per cent. of the cost price of the said property as then situated in the said mill, deeming that to be a much larger price than could be realized from said property if sold at auction, it was finally agreed between said firm and these defendants, as such assignees, with the knowledge, approval, and consent of such creditors as could be consulted at the time, that the said firm of Hill, Carpenter & Company should make such purchase upon the terms contained in a contract in writing then made and entered into by and between these defendants and the said Hill, Carpenter & Company, a copy of which is hereto annexed and marked A, and which said contract these defendants pray may be taken as a part of this their answer, and the original of which the said defendants are ready to produce; that thereupon these defendants made and executed and delivered a bill of sale of all of said stock and materials to the said Hill, Carpenter & Company, a copy of which is hereto annexed, and marked B, and which these defendants pray may be taken as part of this their answer; that in pursuance of the said contract, the said Hill, Carpenter & Company made, executed, and delivered to these defendants, as such assignees, a chattel mortgage upon all the property so sold to them, a copy of which is hereto annexed, marked C, and which these defendants pray may be taken as part

of this their answer, and the original of which these defendants are ready to produce, and a true copy of which these defendants, upon information and belief, aver was, on the 27th day of May, 1854, duly filed in the office of the clerk of the county of Cayuga, in whose office, as these defendants were advised and believed, it was necessary by the statute of the State of New York that such copy should be filed, in order to render such chattel mortgage effective as a lien upon the property covered thereby. And these defendants further aver that a portion of the purchase-money of the said stock and materials, to wit, the sum of five thousand dollars, was immediately paid by the said Hill, Carpenter & Company to these defendants, and by them applied to the payment of the sums due for labor and other preferred claims at said Auburn, and that for the remainder of said thirty-three and one-third per cent. upon said cost valuation, the said Hill, Carpenter & Company gave their promissory note, a copy whereof is annexed hereto, marked D, and is made part of this answer, and secured the said note by the execution and delivery of the said chattel mortgage; that immediately after the execution of the said contract and bill of sale, these defendants delivered possession of the said property to the said Hill, Carpenter & Company, and they took possession and full control of the same; that said sale was made and completed in good faith, and with the intent and desire on the part of these defendants of realizing the greatest sum for said property that could be procured therefor, for the benefit of the creditors of the said defendant Waterman; that the said Hill, Carpenter & Company at once took possession of the said stock and materials so sold, and the management of the said business at the said Owasco Lake mill, and purchased the articles needed for closing out said stock to the best advantage, and conducted the said business at their sole risk without the intervention or control of these defendants in any way or manner whatever.

And these defendants, further answering in manner aforesaid, say, that the sale so as aforesaid made to the said Hill, Carpenter & Company, was not made through any apprehension that the creditors of the said Waterman would attach the said property, nor with any view of defeating such or any other attachment, nor to prevent the creditors of the said Waterman from reaching the said property; nor was said sale made without any actual consideration paid by the said Hill, Carpenter & Company; nor was said sale a mere sham; nor was it made with any design to cover up said property, or any part thereof; nor was it fraudlent or void as to any of the creditors of the said defendant, Waterman; but, on the contrary thereof, these defendants aver, that in making said sale they acted in good faith, and made the same for the benefit of the creditors of the said Waterman, and for the best sum that could be procured, and that the same was not fraudulent.

And these defendants, further answering in manner aforesaid,

say, that after the said *said* sale of the said property to the said Hill, Carpenter & Company, the said Waterman was employed by them, the said Hill, Carpenter & Company, as their agent, to attend to some of their business at said mills, and in connection with the sale of the goods there manufactured, as he was familiar with the details of such business, and was then out of employment; that, as these defendants are informed and believe, the said Hill, Carpenter & Company, immediately after the said purchase and sale, and after so appointing the said Waterman their agent, addressed to their correspondents letters advising them of such purchase and appointment, and among others addressed to Messrs. Richards & Van Wagenan, merchants, of the city of New York, the letter of which a copy is hereto annexed, marked E, and is made part of this answer, which letter these defendants are informed and believe was received by the said Richards & Van Wagenan on or about the 16th day of May, 1854; that all the representations made by these defendants, or either of them, concerning the employment and capacity of the said defendant, Waterman, and the ownership and possession of the said property in the said mills, were true, and not false or fraudulent; that the said Waterman did act as agent of and for the said Hill, Carpenter & Company, transacted business on their account and for their benefit, and did not in said agency manufacture goods or otherwise act for his own benefit or advantage, otherwise than by earning a small salary paid to him for his services by the said Hill, Carpenter & Company; that these defendants did not take possession of or hold any goods manufactured at said mill during said agency by the said Hill, Carpenter & Company, nor did they receive any part of the proceeds thereof otherwise than as the same came to their hands as and for payments by the said Hill, Carpenter & Company upon the amount due from them to these defendants upon the purchase aforesaid: that these defendants have not placed any portion of the said goods, or of the proceeds thereof, in the hands of the said Hill, Carpenter & Company, or in the hands of either of them, upon any private understanding or agreement with the said Hill, Carpenter & Company, or with either of them, without consideration or value received, and for the exclusive benefit of the said Hill, Carpenter & Company, or either of them; and these defendants deny that any portion of the property of the said defendant, Waterman, or of the proceeds thereof, has, through the misconduct of the said defendants, or of either of them, been lost to the creditors of the said Waterman, by reason of the insolvency of the said Hill, Carpenter & Company or otherwise.

And these defendants, further answering in manner aforesaid, admit that they, as such assignees as aforesaid, now hold the balance of the proceeds of the said assigned property, and the choses in action belonging to the said assigned estate, and that the same are now so held by them in the said State of Rhode Island, where these defendants and each of them resides; and these defendants

aver that they, and all the trust funds in their hands, and all choses in action due to them, as such assignees, are within the jurisdiction and under the control of the supreme court of the State of Rhode Island, which court has general jurisdiction over such matters as a court of chancery, and a special jurisdiction, by the statutes of that State, over assignees under voluntary assignments, and that these defendants are properly to be sued, and the matters arising under said assignment, and the distribution of the assets thereunder, are properly to be investigated and distributed by the said supreme court, which court alone has jurisdiction of the persons of these defendants jointly with the subject-matter of this action.

And these defendants, further answering in manner aforesaid, deny that the said assignment and transfer to them was and is altogether fraudulent and void as to the said complainants, or as to any other person or persons; and they admit that they have not paid any portion of the said alleged debt of the said complainants; and they aver that they have no power under the said assignment to pay the same, or any part thereof, until the said complainants have complied with the legal requirements of the said assignment; that these defendants are bound by the authority of the law of the said State of Rhode Island to fulfil and carry out the requirements and trusts of the said assignment, as they are therein specified, and that they could not, without contravening the same, pay the said complainants the amount of their said alleged debt, unless they executed and delivered the release required by the said assignment.

And these defendants, further answering in manner aforesaid, say, that with one exception all of the creditors of the defendant, Waterman, residing in the said State of Rhode Island, and many of the creditors residing out of said State, and in the State of New York and elsewhere, have complied with the conditions of the said deed of assignment, and become parties thereto, by releasing the said defendant, Waterman, and that the claims of the said releasing creditors, and the dividends to which they are entitled according to the provisions of the said assignment, far exceed in amount the sum which said assignees now hold, and such claims also exceed the value of all the assets of said assigned estate.

And these defendants, further answering in manner aforesaid, say, that they have in good faith, in the execution of their trusts under the said assignment, collected and paid out, before the commencement of this suit, to the creditors of the said defendant, Waterman, preferred in said assignment, various sums, exceeding in all the sum of fifty thousand dollars, and far exceeding the amount received by them from sales of property in the State of New York, or which was at any time, to the knowledge of these defendants, in the State of New York, while the property of the said defendant, Waterman.

And these defendants, further answering in manner aforesaid, admit that this suit was commenced against them in the supreme

court of the State of New York, and that they removed the same into this court, and that their appearance therein in this court has been duly entered.

And these defendants, further answering in manner aforesaid, say, that they have no knowledge or information sufficient to form a belief as to the removal or present residence of the complainant, Sexton, as alleged in the said bill.

And these defendants, further answering in manner aforesaid, upon information and belief, deny that by the laws of the State of New York the said complainants acquired the first or any lien upon the said assigned property in the hands of these defendants, as in the said bill alleged.

And these defendants, further answering in manner aforesaid, deny, as they have hereinbefore denied, that the said assignment by the said defendant, Waterman, to these defendants was or is void, or that the same was made with intent to hinder, delay, and defraud the creditors of the said Waterman of their lawful suits, damages, forfeitures, debts, or demands, or of any other thing or right whatsoever; and they further deny, that by reason of anything contained in the statute of the State of New York in said bill of complaint set out the said assignment was or is void; and they aver that the said assignment, having been made by the said defendant, Waterman, at his place of residence, in the said city of Providence, in the said State of Rhode Island, of which he was or is a citizen, cannot in any manner or way be affected or defeated by the provisions of the said recited statute, or by the provisions of any statute of the State of New York whatever.

And these defendants, further answering in manner aforesaid, admit that, as they are informed and believe, by the law of the State of New York the partnership creditors of the said firm of Harris & Waterman had, so long as said firm existed, an equitable right or lien to have their debts discharged and satisfied out of the partnership property of the said firm, paramount and prior to the right of the individual creditors of the said Harris & Waterman to have their debts satisfied out of the partnership property of the said firm; but these defendants aver that by the same law the said lien remained only so long as said firm continued, and that by the dissolution of the said firm of Harris & Waterman, averred in said bill, and by the instrument of dissolution thereof therein set out, the said right or lien of the said partnership creditors was destroyed, and that there was no longer any partner of said firm remaining through whom the said right or lien could be enforced, nor any partnership property to which the same could attach; and these defendants further deny that the creditors of the said Harris & Waterman had or have any equitable lien to have their debts satisfied out of the property of the said Harris & Waterman, or sold by the said Harris to the said Waterman, or out of the proceeds of the said property in the hands of the said Waterman, prior to his

said assignment, or out of the property or proceeds of the property so assigned by the said Waterman to these defendants.

And these defendants, further answering in manner aforesaid, deny that by the laws of the State of New York the creditors of said Harris & Waterman, or of the said Waterman, residing within the said State, had, at the time of the said assignment to these defendants, an equitable right to have the property so assigned applied to the satisfaction of their demands; and they further deny that said assignment was or is in fraud of any equitable or other right of any of said creditors.

And to the several interrogatories propounded to these defendants, these defendants, each answering for himself, and not the one for the other, make answer unto, and say:

1. To the first interrogatory, they say: That the said Stephen Waterman did execute and deliver the said assignment on the 19th day of April, 1854.

2. To the second interrogatory, they say: That the said assignment was not made with any such intent as that stated in said interrogatory; and that these defendants have hereinbefore fully answered said second interrogatory.

3. To the third interrogatory, they say: That they did not take possession of any property belonging to Harris & Waterman, and that they did take possession of all the property of the said defendant, Waterman.

4. To the fourth interrogatory, they say: That all the property so taken possession of by them was not, at the time said assignment was made, within the State of New York; but at that time the said property was in the several States hereinbefore specified; that the value thereof did greatly exceed in amount the alleged debt of the complainants; that some old claims and securities of little or no value, and which these defendants have found to be worthless at present, are still held by the said defendants within the State of New York, they claiming the same under said assignment; that all the residue of said property, or the proceeds thereof, has been removed by these defendants to the State of Rhode Island, as hereinbefore stated; that these defendants did not make a pretended sale of any of said assigned property to said Hill, Carpenter & Co. from any such apprehensions or with any such intent as stated in said interrogatory; nor was any sale made by them to the said Hill, Carpenter & Co. without consideration; but they aver that the sale of said property made by them to the said Hill, Carpenter & Co. was made with the intent and for the purpose, and upon the terms and conditions, and for the consideration hereinbefore averred; that said sale was not a mere sham and cover for said property; that after said sale the said defendant, Waterman, did not continue to manufacture goods at said mill otherwise than as agent, as hereinbefore averred; that the said Waterman did not, after the said assignment, manufacture any goods at said mill for himself, or on

his own account, or for his own benefit; that these defendants do not know and cannot state what the said Waterman gave out and pretended; that these defendants did give out and represent that the said mill was run by the said Waterman as the agent, and for the account and benefit of the said Hill, Carpenter & Co.; that these defendants did represent that the said Waterman was employed in the said mill by the said Hill, Carpenter & Co. as their agent, and that such representations were true; that subsequently to said sale, the said Waterman did not, pretending to act as agent as aforesaid, but in reality acting for his own benefit, manufacture a large or any amount of goods out of stock and property purporting to have passed under said assignment; that the only goods manufactured at said mill out of said property, after the said sale to the said Hill, Carpenter & Co. were manufactured by them; that the only portion of the said goods so manufactured at said mill after said sale, or of the proceeds thereof, received by these defendants, was received by them from the said Hill, Carpenter & Co. to apply upon their indebtedness arising upon such sale, and were so applied; that these defendants have not, without consideration, placed some or any portion of said goods, or of the proceeds thereof, in the hands of the said Hill, Carpenter & Co., or of either of them, upon any private or other understanding or agreement with the said Hill, Carpenter & Co., or with either of them; that the said Hill, Carpenter & Co. have failed and become insolvent; that no portion of the property so assigned by the said defendant, Waterman, or of the proceeds thereof, has, in consequence of such failure and insolvency of the said Hill, Carpenter & Co., become wholly or otherwise lost to the creditors of said Waterman.

4. To the second fourth interrogatory, these defendants say, that they now hold the balance of the said assigned property remaining after the payments hereinbefore averred to have been made, and that they also hold the choses in action belonging to said assigned estate, and that such balance and such choses in action are held by them at Providence aforesaid; but the amount of such balance these defendants are unable to state, as the same depends upon the amount that can be realized from certain claims due to the said assigned estate, among others the claims yet held by these defendants in the State of New York; and these defendants do not know and cannot state the amount the same will realize; that the only choses in action belonging to the said assigned estate now in the possession of these defendants, which were within the State of New York at the time said assignment was made, or which were due to the said Harris & Waterman, and passed from them to the said defendant, Waterman, upon the aforesaid dissolution of said firm, or were due to the said Waterman individually, from persons residing within the State of New York, at the time said assignment was made, or which have since become due to him out of the said assigned property or

assets, consists of certain claims and securities which these defendants have hereinbefore stated and described.

5. To the fifth interrogatory, these defendants say: That the said complainants have never required them to pay and satisfy the alleged debt of the said complainants, or to apply to the payment thereof the property and assets of Harris & Waterman, except as hereinbefore stated; that these defendants have never had possession of any of the property of Harris & Waterman; that these defendants have refused to pay the said alleged debt of the said complainants out of the said assigned estate, for the reasons hereinbefore stated.

6. To the sixth interrogatory, they say: That this action was commenced and removed by the order of said 21st of June, 1855, as in said interrogatory stated.

7. To the seventh interrogatory, they say, that, as they are informed and believe, the appearance of all of the said defendants in this suit was duly entered in this court on the 11th day of September, 1855.

8. To the eighth interrogatory, they say, they do not know and cannot state as to the removal and present residence of the complainant, Sexton.

9. To the ninth interrogatory, they say, that the complainants did not, by the laws of the State of New York, acquire any such lien as that stated in said interrogatory, or any lien whatever.

10. To the tenth interrogatory, they say, that neither by the laws of the State of New York nor by the recited statute was the said assignment by the said defendant, Waterman, to these defendants void; that said assignment was not made with any such intent as that stated in said interrogatory, nor was it made with any unlawful or improper intent whatever; and they aver that said assignment was made with the intent and for the purpose hereinbefore stated.

11. To the eleventh interrogatory, they say, that the creditors of the said Harris & Waterman had, after the dissolution of said firm, no such equitable right as that stated, nor any other right whatever, over the property of the said Waterman.

12. To the twelfth interrogatory, they say, that the creditors of the said Harris & Waterman, and of the said Waterman, residing within the State of New York, had not, at the time of the said assignment, an equitable right to have the said assigned property applied to the satisfaction of their demands, and that said assignment is not in fraud of any such equitable right.

Without this, that there is any other matter, cause, or thing in the complainants' said bill of complaint contained material or necessary for these defendants to make answer unto, and not herein and hereby well and sufficiently answered, avoided, traversed, or denied, is true to the knowledge or belief of these defendants; all which matters and things these defendants are ready and willing to

aver, maintain, and prove, as this honorable court shall direct, and hereby pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

T. A. JENCKES,
ALEX. FARNUM.

CLARENCE A. SEWARD,
Solicitor and of Counsel for Defts., Jenckes and Farnum.

UNITED STATES OF AMERICA,
Rhode Island District, ss:

Thomas A. Jenckes, one of the defendants named in the above answer, and who has signed the same, being, on this eighth day of March, one thousand eight hundred and fifty-six, sworn before me, did depose and say, that he has read the said answer, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters which are therein stated to be on his information or belief, and as to those matters he believes the said answer to be true.

SAM'L W. PECKHAM,
Commissioner of the United States to take Affidavits and Bail for the District of Rhode Island.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

Alex. Farnum, one of the defendants named in the above and foregoing answer, and who has signed the same, being, on this twelfth day of March, one thousand eight hundred and fifty-six, sworn before me, did depose and say that he has read the said answer, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters which are therein stated to be on his information or belief, and as to those matters he believes the said answer to be true.

G. W. MORELL,
U. S. Comm'r South. Dist. New York.

Schedule A.

This agreement, made and entered into this first day of May, 1854, by and between Hill, Carpenter & Co., a firm composed of Paris Hill, Joseph Carpenter, William J. Cross, William S. Merill, and George H. Wilbur, all of the city and county of Providence, of the first part, and Thomas A. Jenckes and Alexander Farnum, both of said Providence, assignees of Stephen Waterman, of said Providence, of the second part, witnesseth:

That whereas the said parties of the second part have this day sold and conveyed to the parties of the first part certain goods, chattels, merchandise, materials, and property belonging to us, as assignees, and situated in the Owasco Lake mill, so called, in the

city of Auburn, in the State of New York, as by reference to the bill of sale thereof and the schedule thereto annexed will more fully appear, and the said parties of the first part have purchased said property and accepted of the conveyance thereof: Now, therefore, it is agreed between said parties that a particular inventory of all said property shall be made out as soon as may be, and that the same shall be valued by competent parties at said mill, at the cost value thereof, as near as practicable, and that the said parties of the first part shall pay for the same the sums following, in manner following, viz: they shall pay to said parties of the second part, on the completion of said inventory, thirty-three and one-third per cent. of the valuation thereof as aforesaid, for which the said parties of the second part agree to accept the writs of said Hill, Carpenter & Company, bearing even date herewith, and payable in six months from date, secured by mortgage upon the property conveyed to them as aforesaid; and the said parties of the first part also further agree with said parties of the second part, that they, the said parties of the first part, will, from the date hereof, furnish at their own risk and expense the amount of stock of wool and materials of every description whatever, and the labor necessary to run out the stock now in process of manufacture, in whatever stage it may be, and the materials on hand for manufacture in, about, and at the mill estate formerly owned by said Waterman at said Auburn, and now known as the Owasco Lake mill estate, and that they will cause all the same to be manufactured and disposed of as soon as may be, and with as little expense as may be, at their exclusive cost and risk; that they will keep and exhibit to said parties of the second part a true and just account of the same and of the proceeds of the sales of said property when manufactured, and at the close of said business they will then pay to said parties of the second part a further sum of money in payment for the property conveyed to them as aforesaid, equal to the net proceeds of all said property, (first deducting the amount of the notes given by them as aforesaid, which is not liable to be reduced or diminished in any way or by any contingency, but is to remain absolute, and to be paid in all events,) after deducting the cost and expenses which they shall have paid and assumed to pay in running out said stock, and the usual commissions of five per cent. and the payments aforesaid shall be in full satisfaction for the property conveyed as aforesaid.

And the said parties of the first part agree to keep said property insured as near the value thereof as may be practicable; and in case of loss by fire before the said stock shall be run out and the net proceeds thereof ascertained as aforesaid, they shall pay to the said parties of the second part such portion of the amount of said insurance money as they would then be entitled to if the said amount had been received from sales of manufactured property.

In testimony whereof, the said parties have hereunto set their hands and seals respectively, the day and year first above written.

T. A. JENCKES, *Assignee*, [L. S.]
ALEX. FARNUM, *Assignee*, [L. S.]
HILL, CARPENTER & CO., [L. S.]

Executed in presence of—
HENRY HOWARD.

Schedule B.

Know all men by these presents, that we, Thomas A. Jenckes and Alexander Farnum, both of the city and county of Providence, and State of Rhode Island, &c., assignees of Stephen Waterman, of said Providence, in consideration of the sum of twenty-five thousand dollars, and other valuable considerations, received to our full satisfaction of Paris Hill, Joseph Carpenter, William J. Cross, William S. Merril, and George H. Wilbur, all of said Providence, copartners under the firm of Hill, Carpenter & Company, have bargained, sold, and delivered, and by these presents do bargain, sell, and deliver, unto the said Hill, Carpenter & Company, all the personal property belonging to us, as assignees as aforesaid, in and about the Owasco Lake mill, so called, situated in the city of Auburn, and county of Cayuga, in the State of New York, excepting the machinery and tools in said mill, and other apparatus connected with the use of the same, and including in the property hereby conveyed all articles of the following description, viz: wool, manufactured, unmanufactured, and in process of manufacture; drugs, dye-stuffs, acids, soap, cloths, reeds, harnesses, and other articles, more particularly described in the schedule hereto annexed:

To have and to hold the same, with all the rights thereto belonging, to them, the said Hill, Carpenter & Company, their executors, administrators, and assigns, forever.

In testimony whereof, we have hereunto set our hands and seals this first day of May, A. D. 1854.

T. A. JENCKES, [L. S.]
ALEX. FARNUM, [L. S.]
Assignees of S. Waterman.

Executed in presence of—
HENRY HOWARD.

Inventory of stock in Owasco Lake mill, Auburn, April 22d, 1854.

DYE-HOUSE.

1 cask cream tartar,	2 casks copperas,
½ cask French madder,	2 casks No. 1 madder,
1 bbl. by chro. potash,	250 lbs. No. 1 madder,
100 lbs. by chro. potash,	200 lbs. brimstone,
150 blue vitriol,	1 bbl. cud bear,

50 lbs. cud bear,
Peach-wood,
1 carboy oil vitriol,
682 lbs. cam-wood,
542 lac dye,
32 bags sumac,
600 soda ash,
613 sanders,
429 hypernich,
50 extract quixit bark,
500 lbs. fustic,
32 bags logwood,
¾ bbl. prussiate potash,
1 case indigo,
300 lbs. argols,
12 carboys muriatic acid,
606 basswood,
2 casks madder,
½ cask sal soda,
2 bbls. salt,
1 cask maple bark,
20 "gro." tin,
600 alum,
1057 "gro." logwood,
204 lbs. fustic bark,
4330 lbs. woad,
24 lbs. cochineal.

Blue vats; 2 blue vats, new; 2 blue vats, half new;
8 yds. wringing cloth; wheat bran; acids in jars.

STORE-HOUSE.

5 bbls. fullers' soap; 6 scouring soap;
4 sperm oil; 3 rosin oil; 14 kegs nails.

FINISHING-ROOM.

3500 yds. broad cotton warps in grease.
4940 " broad flannels, scoured.
960 " in fulling state.
1140 " gigs and shears.
4700 " croped.
2980 " process steaming.
1920 " blks. and brs. colored.
500 " ready for press.
440 " in press.

Fancies.

1446 yards in grease, all wool.
1038 " do. Cot. & W. chks.
222 " fulling C. & W. tweeds.
541 " do C. & W. chks.
1668 " gig and steam, all wool.
807[1] " fancies on T. bars, C. & wool.
423[1] " do do. all wool.
1134[3] " fancies ready for press, C. & W.
601[2] " do. do. all wool.
176[1] " ready to shear, all wool.
262[1] " do. do. C. & W.
281 " in press, all wool.
72[1] " do. cot. & Wool.
73 " do. cot. & wool tweeds.

Cloths ready to ship.

2790 yds. broads.
1117[3] " cassimere wool.
82[3] " imp. cassimere wool.
325 " cotton cass.
178 " imp. do.

SORTED WOOL IN SORTING ROOM.

136 P. K. lock,
1918 No. 1,
2140 " 2,
424 " 3,
452 " 4,
689 " 5,
3487 " 6,
237 " 7,
2851 " 8,
1954 fine fribs.
2788 coarse do.
Carpenter lot in store-house.
3929 } 7142 net.
3271 }
Henington & Warren lot, 1163.
105 county lot blk. wool, 150.
400 lbs. sorted wool in dye-house.
685 } 844 black fleece in store-house.
159 }
Mem. 4—Wool in dye-house and picking-room.
" do. per statement mem. No. 4, 20,751.
1 case, all wool, cass. shipped, 24 case, 262–548 yds.
Mem. 5—78 yds. brds., remnants.
" " 20 " fancy cass.
" 6—Carding, spinning, dressing, and weaving yarn.
Wool, and cloth in process manufacturing, 46,478 yds.
292 lbs. white cotton.
384 " brown do.
1258 " white do.
2 sets card tubes.
150 thousand teazles,
2000 lbs. wool strings,
2000 " tag or sorting locks.
39 carboys.
2000 lbs. gig and shear flocks.
Goods on hand in store.
Reeds, hampers, shuttles, blacksmith's tools, box boards, pipes and pipe fixtures, and patterns for machinery, tools in and about the mill, and iron for repairing.
Office furniture, desks, safe, &c.

Including in the above all goods finished and shipped on or before this day, May 1st, 1854, subject to a lien of fifty-five hundred dolls. for drafts drawn by assignees and accepted by consignees.

STATE OF RHODE ISLAND,
County of Providence, ss:

On the twenty-second day of May, 1854, before me came Thomas A. Jenckes and Alexander Farnum, to me known to be the individuals described in and who executed the annexed instrument in writing, and to be both residents of said State of Rhode Island, and severally acknowledged that they executed the same.

JEROME B. KIMBALL,
Justice of the Peace.

STATE OF RHODE ISLAND,
County of Providence, ss:

I, Thomas S. Anthony, clerk of the supreme court of said county, do hereby certify that Jerome B. Kimball, whose name is subscribed to the foregoing certificate of acknowledgment, is a resident of said county, and was at the time of taking such acknowledgment a justice of the peace, and as such duly authorized by the law of the State of Rhode Island to take the proof of acknowledgment of deeds, and that I am well acquainted with the handwriting of the said Jerome B. Kimball, and verily believe that the signature to said certificate of acknowledgment is genuine.

[L. S.] Witness my hand and official seal, this 22d day of May, A. D. 1854. THOS. ANTHONY, *Clerk.*

Schedule C.

Know all men by these presents, that we, Paris Hill, Joseph Carpenter, William J. Cross, William S. Merrill, and George H. Wilbur, all of the city and county of Providence, and State of Rhode Island, &c., copartners transacting business under the firm of Hill, Carpenter & Company, for and in consideration of the sum of nineteen thousand three hundred and forty-six $\frac{42}{100}$ dollars, to us paid by Thomas A. Jenckes and Alexander Farnum, both of said Providence, assignees of Stephen Waterman, of said Providence, the receipt whereof we do hereby acknowledge, do hereby give, grant, bargain, sell, and convey unto them, the said Thomas A. Jenckes and Alexander Farnum, assignees as aforesaid, all the goods, chattels, and articles of personal property contained in the schedule annexed hereto and made part of this deed, situated in the Owasco Lake mill, so called, in the city of Auburn, county of Cayuga, and State of New York, and in the hands of commission merchants or agents, and in transit to or from said mill, and also all property that may be added thereto in the course of the business of said mill:

To have and to hold the same to them, the said Thomas A. Jenckes and Alexander Farnum, assignees as aforesaid, their heirs, executors, administrators, and assigns, and the survivor of them, and the heirs, executors, administrators, and assigns of such survivor, forever, by these presents:

Provided, however, and this deed is upon this condition, that if we, the said Paris Hill, Joseph Carpenter, William J. Cross, William S. Merrill, and George H. Wilbur, copartners as aforesaid, shall well and truly pay to the said Thomas A. Jenckes and Alexander Farnum, assignees as aforesaid, a certain promissory note bearing even date with these presents, for the sum of nineteen thousand three hundred and forty-six $\frac{42}{100}$ dollars, signed by us, the said Hill, Carpenter & Company, payable to ourselves, and endorsed and delivered to the said Thomas A. Jenckes and Alexander Farnum, assignees as aforesaid, according to the full tenor and effect thereof; and also all drafts that may be drawn by us, the said Hill, Carpenter & Company, or by the said Stephen Waterman, as our agent, on commission merchants or agents, on account of goods manufactured at said mill, and endorsed and delivered to said Thomas A. Jenckes and Alexander Farnum, assignees as aforesaid, and also all sums which we do now or which we may hereafter owe to the said Thomas A. Jenckes and Alexander Farnum, assignees as aforesaid, whether the same may be due on loan, note, contract, account, or otherwise, then this deed shall be void; otherwise shall remain in full force and effect.

In testimony whereof, we have hereunto set our hands and seals, this first day of May, A. D. 1854.

PARIS HILL, [L. S.]
JOSEPH CARPENTER, [L. S.]
WM. J. CROSS, [L. S.]
W. S. MERRILL, [L. S.]
GEORGE H. WILBUR, [L. S.]

Signed, sealed, and delivered in presence of—
JEROME B. KIMBULL.

DYE-HOUSE.

1 cask cream tartar,	2 casks copperas,
½ cask French madder,	2 " No. 1 madder,
250 lbs. No. 1 madder,	1 bbl. bychro. potash,
100 lbs. bychro. potash,	200 lbs. brimstone,
150 blue vitriol,	1 bbl. cud bear,
50 lbs. cud bear,	300 lbs. argols,
Peach wood,	1 carboy oil vitriol,
12 carboys muriatic acid,	682 lbs. camwood,
606 lbs. basswood,	542 lbs. lac dye,
2 casks madder,	32 bags sumac,
½ cask sal soda,	600 soda ash,
2 bbls. salt,	429 hypernich,

2870

1 cask maple bark,
50 extract quixit bark,
500 lbs. fustic,
32 bags logwood,
¾ bbl. prussiate potash,
1 case indigo,
24 lbs. cochineal,
2 blue vats, new,
8 yds. wringing cloth,
613[3] sanders; 20[3] gro. tin,
600 alum,
1057 gro. logwood,
204 lbs. fustic bark,
4330 lbs. woad,
92 lbs. indigo,
Blue vats,
2 blue vats, half worn,
Wheat bran; acids in jars.

STORE-HOUSE.

5 bbls. fuller's soap,
4 bbls. sperm oil,
6 bbls. scouring soap,
3 bbls. rosin oil; 14 kgs. nails.

FINISHING-ROOM.

3500 yds. broad cotton warps in grease.
4930 " broad flannels, scoured.
960 " in fulling state.
1140 " gigs and shears.
4700 " croped.
2980 " process steaming.
1920 " blk. and bws., colored.
500 " ready for press.
440 " in press.

Fancies.

1446 yds. in grease, all wool.
1031 " " " cotton and wool chks.
222 " fulling C. and W. tweeds.
541[1] " " C. and W. chks.
1668[1] " gig and steam, all wool.
807[1] " fancies, on T. bars, C. and wool.
423[1] " do. all wool.
1134[3] " do. ready for press, C. and W.
601[2] " do. do. do. all wool.
176[1] " ready to shear, all wool.
262[1] " do. do. C. and W.
281 " in press, all wool.
72[2] " do. cot. & wool.
73[2] " do. cot. & W. tweed.
2790[2] " broads.
1117[3] " cassimeres, wool.
82[3] " imp. cassimeres, wool.
325 " cotton cassimeres.
128 " imp. do.

SORTED WOOL IN SORTING-ROOM.

136 P. K. lock.

1918 No. 1.
2140 " 2.
424 " 3.
452 " 4.
689 " 5.
3487 " 6.
237 " 7.
2851 " 8.
1954 fine fribs.
2788 coarse do.
Carpenter lot in store-house.
3967 }
3271 } 7,142 net.
Hennington & Warren lot, 1163.
105 county lot blk. wool, 1.50.
400 lbs. sorted wool in dye-house.
685 }
159 } 844 black fleece in store-house.
Mem. 4—Wool in dye-house and picking-room, per statement mem. No. 4, 20,751.
1 case, all wool, cassimeres, shipped, 24 case, 262, 548 yds.
Mem. 5—78 yds. brds., remnants.
" " 20^2 fancy cass.
Carding, spinning, dressing, and weaving yarn.
Wool and cloth in process manufacturing, 46,478 yds.
292 lbs. white cotton.
384 " brown cotton.
1258 " white cotton.
2 sets card tubes.
150 thousand teazles.
2000 lbs. wool strings.
2000 " tag or sorting locks.
39 carboys.
2000 lbs. gig and shear flocks.
Goods on hand in store.
Reeds, harnesses, shuttles, blacksmith's tools, box boards, pipes and pipe fixtures, and patterns for machinery, tools in and about the mill, and iron for repairing.
Office furniture, desks, safe, &c.

Including in the above all goods finished and shipped on or before this day, May 1st, 1854, subject to a lien of fifty-five hundred dollars, for drafts drawn by assignees and accepted by consignees.

Schedule D.

$19,346 42. PROVIDENCE, *May 1st*, 1854.

Six months after date we promise to pay to the order of our-

selves nineteen thousand three hundred and forty-six $\frac{42}{100}$ dollars, for value received.

HILL, CARPENTER & CO.

No. 399, due Nov. 1, '4.
Endorsed: Hill, Carpenter & Co.

Schedule E.

PROVIDENCE, *May* 15, 1854.

Messrs. RICHARDS & VAN WAGENEN.

GENTS: Having made an arrangement to run the Owasco Lake mill, we shall send you the goods, and wish you to dispose of them to the best possible advantage.

We have appointed Stephen Waterman as our agent in the management of the business of the mill, and you will please accept any drafts he may draw, as agent of said mill, on account of goods you receive from the mill. Yours, truly,

HILL, CARPENTER & CO.

To these answers the plaintiffs filed the general replication, in the following words:

Replication.

U. S. CIRCUIT COURT
For the Southern District of New York,
in the Second Circuit.

EDWARD M. LIVERMORE and DAVID B. SEXTON
vs.
STEPHEN WATERMAN, THOMAS A. JENCKES, and ALEXANDER FARNUM. } In equity.

These repliants, saving and reserving to themselves, now and at all times hereafter, all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said answers, for replication thereunto say, that they will aver, maintain, and prove their bill of complaint to be true, certain, and sufficient in the law to be answered unto, and that the said answers *to* the said defendants are uncertain, untrue, and insufficient *of* be replied unto by these repliants; without this, that any other matter or thing whatsoever in the said answers contained, material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed and avoided, traversed or denied, is true; all which matters and things these repliants are and will be ready to aver, maintain, and prove, as this honorable court shall direct, and humbly pray as in and by their said bill they have already prayed.

MONELL, WILLARD & ANDERSON,
Complainants' Solicitors.

The plaintiffs have taken no testimony in the case.

Defendants' Evidence.

The President of the United States of America to Richard E. Stilwell, greeting:

Know ye, that we, in confidence of your prudence and fidelity, have appointed you commissioner, and by these presents do give you full power and authority diligently to examine, upon his corporal oath or affirmation, before you to be taken, and upon the interrogatories hereunto annexed, Peter Richards, jr., as a witness on the part of the defendants, in a certain cause now pending undetermined in the circuit court of the United States of America for the southern district of New York, wherein Edward M. Livermore and David B. Sexton are complainants, and Stephen Waterman, impleaded, &c., with Thomas A. Jenckes and Alexander Farnum.

And we do further empower you to examine on the same behalf and in like manner any other person or persons who may be produced as witnesses before you; and we do hereby require you, before whom such testimony may be taken, to reduce the same to writing, and to close it up under your hand and seal, directed to J. W. Nelson, clerk U. S. circuit court, New York city, as soon as may be convenient after the execution of this commission; and that you return the same, when executed, as above directed, with the title of the cause endorsed on the envelope of the commission.

Witness the honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, at the city of New York, this thirtieth day of August, in the year of our Lord one thousand eight hundred and fifty-six, and of our independence the eighty-first.

J. W. NELSON, *Clerk.*

HARRINGTON & DODGE,
Sol'rs for Def't, Waterman.

The execution of this commission appears in certain schedules hereuuto annexed.

R. E. STILWELL, *U. S. Com'r.*

INSTRUCTIONS.

I. All the commissioners named in the commission should have notice of the time and place of executing it; and if any of them do not act, let the fact that they were notified, or could not be notified, and the reasons for their not acting, be stated.

II. The commission must be executed by the commissioner named therein.

III. The acting commissioner will examine the witnesses separately, after publicly administering to them the following oath or affirmation:

" You do swear that the answers which shall be given by you to

the interrogatories proposed to you shall be the truth, the whole truth, and nothing but the truth. So help you God."

The oath shall be administered (except in cases hereinafter mentioned) by the witness laying his hand upon and kissing the Gospels.

But if the witness shall desire it, he shall be permitted to swear in the following form: "You do swear in the presence of the everliving God," and while so swearing, he may or may not hold up his hand, in his discretion.

Or if the witness shall declare that he has conscientious scruples against taking an oath or swearing in any form, he shall be permitted to make his affirmation in the following form: "You do solemnly, sincerely, and truly declare and affirm," omitting the words "So help you God."

IV. The general style or title of the depositions must be drawn up in the following manner:

"Depositions of witnesses produced, sworn, (or affirmed,) and examined the day of in the year one thousand eight hundred and at under and by virtue of a commission issued out of the in a certain cause therein depending and at issue between defendant , as follows:

A. B., of (insert his place of residence and occupation,) aged years and upwards, being duly and publicly sworn (or affirmed) pursuant to the directions hereto annexed, and examined on the part of the doth depose and say as follows: First—To the first interrogatory, he saith, &c., (insert the witness' answer. Second—To the second interrogatory, he saith, &c., and so on throughout.

If he cannot answer, let him say that he knoweth not.

V. If there be any cross-interrogatories, the witness will go on thus:

First—To the first cross-interrogatory, he saith, &c., and so on throughout.

VI. When the witness has finished his deposition, let him subscribe it, and the acting commissioner will certify as follows:

Examination taken, reduced to writing, and by the witness subscribed and sworn to this day of 18 before

Commissioner.

VII. If any papers or exhibits are produced or proved, they must be annexed to the depositions in which they are referred to, and be subscribed by the witness, and be endorsed by the acting commissioner in this manner:

"At the execution of a commission for the examination of witnesses between defendant this paper writing was pro-

duced and shown to (insert the witness's name) and by him deposed unto at the time of his examination, before.

Commissioner.

VIII. The acting commissioners will sign their names to each half sheet of the depositions and exhibits.

IX. If an interpreter is employed, one of the commissioners will administer to him the following oath, and certify thereto:

"You do solemnly swear that you will truly and faithfully interpret the oath and interrogatories to be administered to a witness now to be examined out of the English language into the language, and that you will truly and faithfully interpret the answers of the said thereto, out of the into the English language."

Let the deposition be subscribed by the interpreter as well as by witness, and certified by the acting commissioner, as follows:

Examination taken, reduced to writing, subscribed by the witness and by the sworn interpreter, and sworn to by the witness, this day of 18 before

Commissioner.

X. The commissioner will make return on the back of the commission by endorsement, thus:

"The execution of this commission appears in certain schedules hereunto annexed."

Commissioner.

XI. The depositions and exhibits (if any) must be annexed to the commission, and then the commission, the directions, the interrogatories, cross-interrogatories, depositions, and exhibits, must be folded into a packet and bound with tape. The acting commissioners are to set their seals at the several meetings or crossings of the tape, endorse their names on the outside, and direct it, thus:

To esquire,

Clerk of the at

XII. When the commission is thus executed, made up, and directed, it must be returned in the manner specified in the direction on the commission, if there be any.

XIII. If there be no direction on the commission specifying the manner in which it is to be returned, then it must either be delivered to the court by one of the acting commissioners personally, or else be forwarded by some person coming to this place, and who must be able, on his arrival, to make oath, before one of the judges or the clerk of the court:

"That he received the same from the hands of A. B., one of the

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commissioners, and that it had not been opened or altered since he so received it."

XIV. In case of returning the commission by mail, it is to be deposited by one of the acting commissioners in the nearest post office, he making the following endorsement thereon:

"Deposited in the post office at this day of 18 , by me,

Commissioner."

In case of returning the commission by a vessel, it is to be deposited by one of the acting commissioners in the letter-bag of such vessel, he making upon the commission the following endorsement:

"Deposited in the letter-bag of the now lying at and bound for the port of New York, this day of 18 , by me,

Commissioner."

The commissioners are requested to be very careful to observe the foregoing instructions, as the smallest variance may vitiate the execution of the commission.

If the commission be returned by an agent, let him be instructed to call, on his arrival at this place, upon who will direct him as to its delivery.

CIRCUIT COURT OF THE UNITED STATES,
For the Southern District of New York.

EDWARD M. LIVERMORE and DAVID B. SEXTON
vs.
STEPHEN WATERMAN, impleaded, &c., with THOMAS A. JENCKES and ALEXANDER FARNUM. } In Equity.

GENTLEMEN: You will please take notice, that on filing with the clerk of this court, at his office, in the city of New York, the interrogatories in the above-entitled cause, of which the annexed are copies, and with copies of which you are herewith served, we intend to issue a commission to examine Peter Richards, jr., of the city of New York, named in said interrogatories and copies interrogatories, as a witness in said above-entitled action on the part of the defendant Waterman therein, before a commissioner to be named by said court, or by a judge thereof, and that you are required, within ten days from the service of the said copies interrogatories and of this notice upon you, to file cross-interrogatories to said witness in said cause, and that, if you omit to file cross-interrogatories within said ten days, we shall issue said commission

duced and shown to (insert the witness's name) and by him deposed unto at the time of his examination, before.

Commissioner.

VIII. The acting commissioners will sign their names to each half sheet of the depositions and exhibits.

IX. If an interpreter is employed, one of the commissioners will administer to him the following oath, and certify thereto:

"You do solemnly swear that you will truly and faithfully interpret the oath and interrogatories to be administered to a witness now to be examined out of the English language into the language, and that you will truly and faithfully interpret the answers of the said thereto, out of the into the English language."

Let the deposition be subscribed by the interpreter as well as by witness, and certified by the acting commissioner, as follows:

Examination taken, reduced to writing, subscribed by the witness and by the sworn interpreter, and sworn to by the witness, this day of 18 before

Commissioner.

X. The commissioner will make return on the back of the commission by endorsement, thus:

"The execution of this commission appears in certain schedules hereunto annexed."

Commissioner.

XI. The depositions and exhibits (if any) must be annexed to the commission, and then the commission, the directions, the interrogatories, cross-interrogatories, depositions, and exhibits, must be folded into a packet and bound with tape. The acting commissioners are to set their seals at the several meetings or crossings of the tape, endorse their names on the outside, and direct it, thus:

To esquire,

Clerk of the at

XII. When the commission is thus executed, made up, and directed, it must be returned in the manner specified in the direction on the commission, if there be any.

XIII. If there be no direction on the commission specifying the manner in which it is to be returned, then it must either be delivered to the court by one of the acting commissioners personally, or else be forwarded by some person coming to this place, and who must be able, on his arrival, to make oath, before one of the judges or the clerk of the court:

"That he received the same from the hands of A. B., one of the

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commissioners, and that it had not been opened or altered since he so received it."

XIV. In case of returning the commission by mail, it is to be deposited by one of the acting commissioners in the nearest post office, he making the following endorsement thereon:

"Deposited in the post office at this day of 18 , by me,

Commissioner."

In case of returning the commission by a vessel, it is to be deposited by one of the acting commissioners in the letter-bag of such vessel, he making upon the commission the following endorsement:

"Deposited in the letter-bag of the now lying at and bound for the port of New York, this day of 18 , by me,

Commissioner."

The commissioners are requested to be very careful to observe the foregoing instructions, as the smallest variance may vitiate the execution of the commission.

If the commission be returned by an agent, let him be instructed to call, on his arrival at this place, upon who will direct him as to its delivery.

CIRCUIT COURT OF THE UNITED STATES,
For the Southern District of New York.

EDWARD M. LIVERMORE and DAVID B. SEXTON
vs.
STEPHEN WATERMAN, impleaded, &c.; with THOMAS A. JENCKES and ALEXANDER FARNUM. } In Equity.

GENTLEMEN: You will please take notice, that on filing with the clerk of this court, at his office, in the city of New York, the interrogatories in the above-entitled cause, of which the annexed are copies, and with copies of which you are herewith served, we intend to issue a commission to examine Peter Richards, jr., of the city of New York, named in said interrogatories and copies interrogatories, as a witness in said above-entitled action on the part of the defendant Waterman therein, before a commissioner to be named by said court, or by a judge thereof, and that you are required, within ten days from the service of the said copies interrogatories and of this notice upon you, to file cross-interrogatories to said witness in said cause, and that, if you omit to file cross-interrogatories within said ten days, we shall issue said commission

ex parte, under and in pursuance of rule LXVII of said court, in equity cases, for the examination of said witness in said interrogatories and in said copies interrogatories and herein named, to such commissioner as the said court, or a judge thereof, shall name.

Dated August 19th, 1856.

Yours, &c.,
HARRINGTON & DODGE,
Sol'rs for Stephen Waterman.

CIRCUIT COURT OF THE UNITED STATES,
For the Southern District of New York.

EDWARD M. LIVERMORE and DAVID B. SEXTON
vs.
STEPHEN WATERMAN, impleaded, &c., with THOMAS A. JENCKES and ALEXANDER FARNUM. } In Equity.

Interrogatories in chief to be propounded to Peter Richards, jr., a witness to be produced, sworn, or affirmed, and examined on the part and behalf of the defendant, Stephen Waterman, in the above-entitled cause, under and by virtue of the annexed commission:

1. What is your name, age residence, and occupation?
2. Where did you reside in May, 1854, and what business were you then engaged in? And, if you had a partner in such business, state the name of such partner.
3. State if you knew the late firm of Hill, Carpenter & Co., and who composed such firm in May, 1844, and where was the principal place of business of such firm?
4. Will you look at the copy letter hereto annexed, marked "A," and state whether you or your business firm ever received the original of such letter, and, if so, when such original was received, and where the same now is?
5. Will you compare said copy marked "A" with said original, and state whether or not the same is a true copy of said original letter?
6. State from whom said original was received.
7. State if you know in whose handwriting said original letter is, and, if you do not know, state your belief, and, if you state your belief, state also the grounds of such belief.
8. Do you know, or can you set forth any other matter or thing, which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matter in question in this cause? If yea, set forth the same fully and at large in your answer.

HARRINGTON & DODGE,
Sol'rs for Stephen Waterman.

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A.

PROVIDENCE, *May* 15, 1854.

Messrs. RICHARDS & VAN WAGENEN:

GENTS: Having made an arrangement to run the Owasco Lake Mill, we shall send you the goods, and wish you to dispose of them to the best possible advantage. We have appointed Stephen Waterman as our agent in the management of the business of the Mill, and you will please accept any drafts he may draw, as agent of said Mill, on account of goods you receive from the Mill.

Yours, truly,

HILL, CARPENTER & CO.

Deposition of witness produced, sworn, and examined, the 4th day of September, in the year one thousand eight hundred and fifty-six, at the city of New York, under and by virtue of commission issued out of the circuit court of the United States for the southern district of New York, in a certain cause therein depending, and at issue between Edward M. Livermore and David B. Sexton, complainants, and Stephen Waterman, impleaded with Thomas A. Jenckes, and Alexander Farnum, defendants:

Peter Richards, jr., of the city of Brooklyn, commission merchant, aged 44 years, being duly and publicly sworn, pursuant to the directions hereunto annexed, and examined on the part of the defendant, doth depose and say, as follows:

First. To the 1st interrogatory, he saith: My name is Peter Richards, jr., age 44, residence Brooklyn, and occupation commission business, in New York.

Second. To the 2d interrogatory, he saith: My residence and business was the same in May, 1854, and I was associated at that time with W. F. Van Wagenen, under the firm of Richards & Van Wagenen.

Third. To the 3d interrogatory, he saith: I knew the late firm of Hill, Carpenter & Co., and it was composed in May, 1854, of Paris Hill, Joseph Carpenter, Wm. J. Cross, Wm. S. Merrill, and George H. Wilbur, and their principal place of business was Providence, Rhode Island.

Fourth. To the 4th interrogatory, he saith: We received the original of the copy of letter marked A, so far as I can recollect, in due course of mail, and it is still in our possession.

Fifth. To the 5th interrogatory, he saith: I have compared said copy with said original, and find it to be a true copy of said original letter.

Sixth. To the 6th interrogatory, he saith: Said original letter was received from the firm of Hill, Carpenter & Co.

Seventh. To the 7th interrogatory, he saith: It is my belief that said original letter is in the handwritting of Joseph Carpenter,

from its resemblance to other letters known to have been written by him.

Eighth. To the 8th interrogatory, he saith: He knoweth not.

PETER RICHARDS, JR.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 4th day of September, 1856, before—

R. E. STILWELL,
U. S. Com'r.

A commission to the said Richard E. Stilwell, as commissioner, for the examination of the said Peter Richards, jr., was issued on behalf of the defendants, Jenckes and Farnum, and was executed and returned. The interrogatories annexed to said last-named commission, and the answers of said witness to said interrogatories are identical with the interrogatories and answers printed ante, pp. 66 to 68.

Upon the copy chattel mortgage, schedule C, printed ante, pp. 42 to 45, are the following endorsement and certificate:

"(Endorsed:) Filed May 27, 1854, at 5 p. m.

STATE OF NEW YORK,
Cayuga County, Clerk's Office, ss:

I do do hereby certify that I have compared the foregoing with an original copy chattel mortgage on file in my office, and that it is a correct transcript therefrom, and of the whole of such original.

[SEAL.] In witness whereof, I have hereunto set my hand and official seal, this 24th day of October, 1854.

E. B. MARVIN,
Clerk Cayuga County.

CIRCUIT COURT OF THE UNITED STATES,
Southern District of New York.

EDWARD M. LIVERMORE et al.
vs.
THOMAS A. JENCKES et als. } In Equity.

It is hereby stipulated between the solicitors for the respective parties, that the complainants may, on the hearing of this cause, read in evidence, without proof thereof, any printed statute of the State of New York, and any decision of any of the courts of said State; and that the defendants may, on such hearing, read in evidence, without proof thereof, any printed statute of the State

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of Rhode Island, and any decision of any of the courts of said State.

Dated August 28, 1856.

MONELL, WILLARD & ANDERSON,
Compl'ts Solr's.

C. A. SEWARD,
M. G. HARRINGTON, *for Def'ts.*

UNITED STATES OF AMERICA,
Rhode Island District, ss:

To Edward M. Livermore and David B. Sexton, both of the city of New York, in the southern district of New York, greeting:

Request having been made to me by Stephen Waterman, Thomas A. Jenckes, and Alexander Farnum, to take the deposition of Joseph Carpenter and others, to be used in the trial of a bill in equity now pending in the circuit court of the United States for the southern district of New York, wherein Edward M. Livermore and David B. Sexton, are complainants, and Stephen Waterman, Thomas A. Jenckes, and Alexander Farnum, are respondents—said depositions to be taken in pursuance of the sixty-eighth rule of the Supreme Court of the United States—and because said witnesses live at a greater distance from the place of trial of said bill in equity than one hundred miles.

You are hereby notified that my office No. 26 Whatcheer Buildings, in the city of Providence, in said district of Rhode Island, is by me appointed the place, and Friday, the twenty-ninth of August inst., at 10 o'clock, a. m., the time for taking said depositions; at which time and place you may appear, if you see fit, and put such interrogatories to said witnesses as may seem meet.

Witness my hand, this eighteenth day of August, A. D. 1856, at Providence, in the district of Rhode Island.

THOMAS S. ANTHONY,
U. S. Com'r for taking affidavits, &c.,
Cir. C't. R. I. District.

Recd. 19th Aug., '56, and service admitted.

MONELL, WILLARD & ANDERSON,
Solrs. for Complts.

August 29th, 1856.—Adjourned to Thursday, September 4th, 1856, at 10 o'clock, A. M., by agreement of parties, through their counsel.

THOMAS S. ANTHONY, *Comr.*

UNITED STATES OF AMERICA,
Rhode Island District, ss:

I, Thomas S. Anthony, commissioner of the circuit court of the United States, for the district of Rhode Island, for taking affidavits, &c., under and by virtue of the several acts of Congress in that be-

half made and provided, do hereby certify, that on the eighteenth day of August, A. D. 1856, the annexed notification issued from my hands, directed to Edward . Livermore and David B. Sexton, both of the city of New York, in the southern district of New York, for the purpose of taking the depositions of Joseph Carpenter and others, to be used in the trial of a bill of equity pending in the circuit court of the United States, for the southern district of New York, wherein Edward M. Livermore *et al.* are complainants, and Stephen Waterman *et al.* are respondents—said depositions to be taken in pursuance of the 68th rule of the Supreme Court of the United States, and because said witnesses live at a greater distance than one hundred miles from the place of trial of said bill in equity.

I further certify, that on the 29th day of said August, after ten days' service of said notification, as appears by the acknowledgment thereof minuted thereon, the taking of said depositions was adjourned to the 4th day of September, inst., at 10 o'clock, A. M., in pursuance of an agreement of counsel thereto.

I further certify, that on said 4th day of September, the parties met according to adjournment, the complainants represented by Willard, of their counsel, and the respondents in person, when the taking of the depositions was dispensed with, and the annexed stipulation was made and presented to me to be returned herewith.

I further certify, that I am not of counsel for either party, nor interested in the event of said cause.

In witness whereof, I have hereunto set my hand, at Providence, in said district, this fourth day of September, A. D. 1856.

THOMAS S. ANTHONY,
U. S. Comr. for taking affidavits, &c.,
Cir. Ct., R. I. District.

Comr.'s fees.

Notice	45
2 days' attendance	6 00
Caption, 4 folios, at 15	60
1 mile travel	10
	$7 15

T. S. ANTHONY, *Comr.*

Stipulation referred to in the Caption.

CIRCUIT COURT OF THE UNITED STATES,
Southern District of New York.

EDWARD M. LIVERMORE et al.
vs.
STEPHEN WATERMAN et al. } In equity.

It is hereby stipulated between the solicitors for the respective parties, that the defendants may, on the hearing of said cause,

read in evidence the following described documents as proved, without calling the subscribing witnesses or others to prove the execu- of the same:

1st. The deed of assignment from Stephen Waterman to Thomas A. Jenckes and Alexander Farnum, bearing date the nineteenth day of April, A. D. 1854;

2d. A bill of sale from the said Thomas A. Jenckes and Alexander Farnum, assignees of said Stephen Waterman, to the firm of Hill, Carpenter & Co., bearing date the first day of May, A. D. 1854;

3d. An agreement between said assignees and said firm of Hill, Carpenter & Company, bearing date the first day of May, 1854;

4th. A mortgage of personal property from the said firm of Hill, Carpenter & Company, to said assignees, dated the first day of May, 1854;

Together with the schedules, certificates of record, and other certificates attached to said documents.

5th. Also certain releases executed by the creditors of said Stephen Waterman, and delivered to said assignees previous to the date of the commencement of the complainant's suit.

6th. It is further stipulated, as a fact in said cause, that the assignment from said Stephen Waterman to said Thomas A. Jenckes and Alexander Farnum was executed at Providence, in the State of Rhode Island, on the day of its date.

Providence, Sept. 4th, 1856.

MONELL, WILLARD & ANDERSON,
Solrs. for Complts.

The two schedules, of which the following, marked No. 1 and No. 2, are copies, were attached to the deed of assignment from Stephen Waterman to Thomas A. Jenckes and Alexander Farnum, dated April 19th, 1854, which is printed *ante* in the bill.

No. 1.

Schedule of debts due from Stephen Waterman, April 19th, 1854.

Hill, Carpenter & Co	$22,150 50
John D. Burgess	510 30
Henry Whitman	2,383 46
V. J. Bates	1,442 46
Resolved Waterman	4,979 23
A. N. Beckwith	1,641 74
Truman Beckwith	1,641 74
Wm. J. King & Co	6,252 40
Royal Chapin & Son	1,250 00
Joseph Seagrave, Jr	1,250 00
Blackstone Mfg. Co	596 27

Pontiac Mfg. Co	$2,475 37
Day & Chapin	324 88
Wm. A. Robinson & Co	284 43
John H. Mason & Son	1,214 85
John N. Mason	1,491 61
J. B. Ames & Co	100 00
S. & W. Foster	301 36
Alex. Farnum	13,327 17
Furbush & Crompton	6,689 88
Leicester Bank	6,483 00
Sumner Pratt	940 03
Daniel Tainter	265 00
G. S. & A. J. Howe	1,679 17
T. K. Earle & Co	257 99
C. H. Harrington & Co	205 71
Davis & Furber	3,150 00
S. N. Mason	1,766 30
E. N. Kellogg & Co	3,200 84
John C. Dodge	1,219 52
John H. Potter	596 65
B. F. Greene	1,977 69
L. Fairbrother	21 51
H. W. Carpenter	78 95
Geo. W. Fiske	70 02
Edwards & Jenness	4,634 70
David Scull, Son & Co	11,512 93
Kimber, Henry & Co	14,433 77
Morris, Tasker & Morris	184 39
John Farnum & Co	10,098 64
Steen, Ganett & Co	3,761 67
B. G. Wilkins	3,232 17
J. G. Whitaker	80 00
E. M. Livermore & Co	11,139 65
S. W. Goodridge & Co	5,223 72
H. A. & J. H. Richards	10,334 72
E. Van Vontus & Co	1,305 97
Gifford, Sherman & Innis	3,170 04
W. A. Sall, jr	734 56
Freeland, Stuart & Co	1,556 70
C. E. Habicht & Co	581 00
J. O. Morse	82 95
W. Partridge & Sons	865 96
Law & Beardsley	99 10
Titus & Barnes	290 13
A. T. Seagrave	52 76
Beach & Ternan	28 53
Curtis & Hopper	52 72
Philips & Northup	256 73

Jones & Rocheford	$169 22
W. H. Titus & Co	300 76
Johnes, Beekman & Knox	228 97
Beekman, Knox & Ripley	24 47
Robert Lewin	1,323 53
R. Carpenter & Co	3,785 81
James Wilson	8,203 91
Annable & Smith	801 16
Howland, Burgess & Smith	306 09
J. A. Sherman, Agt	5,694 00
C. W. Hutchinson	102 21
A. J. Wilham	50 30
Herrington & Warren	789 81
Wm. McKie	2,659 62
Van Schaick & Bedell	297 18
James King	600 00
Elias Thorne	6,152 88
G. C. Miller	240 00
Auburn City Bank	2,450 00
Sargent & Mortimer	1,237 42
Russell & Smith	315 05
Pulsifer & Lewis	679 57
A. H. & J. Burt	309 33
L. D. Richardson	67 22
John Curtis	45 48
Patrick Carrigan	600 00
Notes of which the holders are unknown	2,094 31 2,311 70

No. 2.

Inventory of Stock in Owasco Lake Mill, Auburn, April 22, 1854.

DYE-HOUSE.

1 cask cream tartar	2 bbls. salt
2 casks copperas	492 hypernick
½ cask French madder	1 cask maple bark
2 casks No. 1 madder	613² landus.
250 lbs. No. 1 madder	20² "gro." tin
1 bbl. bychro potash	50 extract quixit bark
200 lbs. brimstone	600 alum
150 blue vitriol	5000 lbs. fustic
1 bbl. cud bear	1057 "gro." logwood
50 lbs. cud bear	32 bags logwood
300 do. argols	204 lbs. fustic bark
Peachwood	⅓ bbl. prusatic potash
1 carboy oil vitriol	4330 lbs. woad
12 carboys muriatic acid	1 case indigo; 92 lbs. indigo

682 lbs. camwood
606 barwood
542 lac dye
2 casks madder
32 bags sumac
½ cask sal soda
600 soda ash
24² lbs. cochineal
Blue vats
2 blue vats, new
2 blue vats, half-worn
8 yds. umiging cloth
Wheat bran
Acids in jars

STORE-HOUSE.

5 bbls. fuller's soap
6 " scouring soap
4 " sperm oil
3 bbls. rosin oil
14 kegs nails

FINISHING ROOM.

3500 yds. broad cotton warps in grease
4940 " broad flannels scoured
960 " in fulling state
1140 " gigs and shears
4700 yds. croped
2980 " process steaming
1920 " blks. and bros. col'd
500 " ready for press
440 " in press

FANCIES.

1446 yds. in grease, all wool
1038 " " " cott. and W. ch'ks
222 " fulling C. and W. tweeds
541¹ " " C. and W. ch'ks
1668¹ " gig. and steam, all wool
807¹ " fancies on T. bars, C. and wool
423¹ " do do all wool
1134³ " fancies ready for press, C. and W.
601² " do do do all wool
176¹ " ready to shear, all wool
262¹ " do do C. and W.
281 " in press, all wool
72² " do cot. and wool
73 " do cot. and wool tweed

CLOTHS READY TO SHIP.

2790² yds. broads
1117³ " cassimeres, wool
82³ " imp. cassimeres, wool
325 " cotton cass.
178 " imp. do

SORTED WOOL IN SORTING ROOM.

136 P. K. Lock
1918 No. 1,
3487 No. 6,
237 " 7,

2149 No. 2,
424 " 3,
452 " 4,
689 " 5,
2851 No. 8,
1954 fine fribs
2788 coarse do

CARPENTER LOT IN STORE-HOUSE.

3997
3271
—— 7142 net
Herrington & Warren, lot 1163
105 county lot, bl'k wool, 150
400 lbs. sorted wool in dye-house
685 } 844 black fleece in store-house
159 }
Mm. 4, wool in dye-house and picking-room
do pr. statement m. min. No. 4, 20,755
1 case all wool cass. shipped 24th case 262,548 yds
Mem. 5, 78 yds. brds, remnants
" " 20^2 fancy cass.
" 6, carding, spinning, dressing and weaving yarn
" " wool and cloth in process manufacturing, 46,478 yds
292 lbs. white cotton.
384^6 " brown cotton.
1258 " white cotton.
2 sets card tubes.
150 thousand teazles.
2000 lbs. wool strings.
2000 " fag or sorting locks.
39 carboys.
2000 lbs. gig and shear flocks.

GOODS ON HAND IN STORE.

Reeds, harnesses, shuttles, blacksmiths' tools.
Box bands, pipes, and pipe fixtures, and patterns for machinery, tools in and about the mill, and iron for repairing.
Office furniture, desks, safe, &c.

Inventory of stock at Glenham Mills, Leicester.

260 lbs. 2d quality sorted wool in the grease.
461 lbs. 3d " "
440 lbs. 4th " "
1443 lbs. 5th " "
1407 lbs. 6th " "
1343 lbs. listing " "
248 lbs. coarse fribs " "
234 lbs. fine fribs " "

533 lbs. 6th quality bl'k wool in fleece.
750 lbs. 5th " bl'k " "
500 lbs. 5th " claret " "
500 lbs. 4th " blue " "
500 lbs. 4th " black " "
500 lbs. 4th " brown " "
500 lbs. 3d " claret " "
250 lbs. 6th " brown " "
750 lbs. white cotton.
320 lbs. colored do.
314 lbs. 4th bl'k warp yarn all wool.
302 lbs. 4th green " "
316 lbs. 4th red " "
166 lbs. 3d drab " "
144 lbs. 3d green " "
48 lbs. 4th blue " "
457 lbs. 6th green and brown warp yarn ½ cotton.
2177 lbs. av. 4th various colors " "
358 lbs. 5th green filling yarn all wool.
58 lbs. 6th white " half cotton.
259 lbs. 6th green " "
158 lbs. 6th black " "
35 lbs. 6th lavender filling yarn half cotton.
315 yds. cassimeres in the looms.
551 lbs drawing waste.
1170 " weaver's and card waste.
400 " card waste.
1660 " shear flocks.
40 g. sperm oil.
240 " lard oil.
250 lbs. cut logwood.
150 " " fustic.
236 " peach wood.
472 " lima wood.
316 " cam wood.
392 " sumac.
39 " madder.
161 " glue.
672 " bolted logwood.
268 " alum.
303 " sal soda.
200 " red tartar.
295 " soda ash.
435 " pearl ash.
1155 " soda ash.
496 " by-chro potash.
87 lbs. cutch.
121 " cudbear.
95 " copperas.
90 " hypernic.
196 " cream tartar.
5 " ground indigo.
6 " grain tin.
106 " muriatic acid.
55 " nutric "
81 " sulphuric "
2667 " oil soap "
84 " soda soap "
74 m. teasels.
2 cords wood.
Lot hardware and iron.
" lumber.
6½ doz. pickers.
4 " shuttles.
Lot wrapping paper.
" brooms and brushes.
" belting.
" loom cord.
4 lbs. sig.
99 bales cotton, of which the realized value was---- $5,200

2879

Goods in hands of Richards and Van Wagenen.

Of Glenham Mills	40538¼	yds.	against
Owasco Mills, Cassimeres	24892⅜	do.	which
Cloths	8935⅜	do.	was
Fannels	12554	do.	drawn
other goods	706	do.	$44,500.

In hands of Murdock & Dall.

Owasco Mill Cloths	14069	yds.	$20,100
Flannels	56296	do.	drawn.

In hands of T. C. Howe & Co.

Owasco Mill Fiannels 7855 yds ..... $1573 drawn.

Wool in hands of H. A. & T. H. Richards, which cost. $15,550

⅛ of bark Byron.

20 shares Commercial Mutual Ins. Co.

275 do North River Mining and Quarrying Co.

Office furniture, horse, &c., &c.

The following are copies of the releases referred to in the 5th provision of the foregoing stipulation, dated Sept. 4, 1856:

Whereas, Stephen Waterman, of the city and county of Providence, and State of Rhode Island, made and executed a deed of assignment of all his property to Thomas A. Jenckes and Alexander Farnum, of said Providence, on the 19th day of April, A. D. 1854, and whereas, by the terms of said assignment the creditors of said Stephen Waterman were required to execute and deliver to said Thomas A. Jenckes and Alexander Farnum a full release and discharge of the said Waterman, in order to become entitled to any dividend out of his said estate, within six months after the date of said deed of assignment.

Now, therefore, we, the undersigned, creditors of said Stephen Waterman, in consideration of the making and executing of said deed of assignment, and the dividends and benefits to which we may be entitled to under the same, and in further consideration of the sum of one dollar received to our full satisfaction of the said Stephen Waterman, do hereby, for ourselves and the survivors of any co-partnerships, and for our several and respective executors, administrators, and assigns, release and discharge him, the said Stephen Waterman, his heirs, executors, and administrators, from all claims and demands which we hold against him, arising or growing out of any dealings, acts, matters, or transactions which have taken place previous to the date hereof; reserving to ourselves all claims against the said Thomas A. Jenckes and Alexander Farnum, assignees as aforesaid, for any and all sums to which we now are or hereafter may be entitled out of the said assigned estate.

In testimony whereof, we have hereunto set our hands and seals, this fourth day of September, A. D. 1854.

JOHN H. MASON & SON, [L. S.]
JOHN N MASON, "
WM. FOSTER, "
S. & W. FOSTER, "
ALEX. FARNUM, "
WM. J. KING & CO., "
RESOLVED WATERMAN, "
DAY & CHAPIN, "
JAMES B. AMES & CO., "
J. D. BURGESS, "
W. A. ROBINSON & CO., "
JOSIAH SEAGRAVE, Jr., "
HILL, CARPENTER & CO., "
ROYAL CHAPIN & SON, "
TRUMAN BECKWITH, "
A. N. BECKWITH, "
HENRY WHITMAN, "
BLACKSTONE MFG. CO.,
GODDARD & BROTHERS, "
AGENTS.
VARNUM J. BATES, "

Executed in presence of—
JA'S H. MUMFORD, 2d.

Witness to the signature of John H. Mason & Son and John N. Mason.

T. A. RANDALL,
Of Wm. Foster and S. W. Foster.

SAM'L BOWLER,
Witness to signature of Alex. Farnum.

LEWIS C. LAWTON,
Of Wm. J. King & Company.

W. HUMPHREY,
Witness of the signature of R. Waterman.

Executed in presence of—
JAMES C. FRY,
Witness to signature of Day & Chapin.

Witness to signature of J. B. Ames & Co.,
G. H. HOPPIN.

Witness to signature of J. D. Burgess,
THOS, NEWTON.

Witness to signature of W. A. Robinson & Co.,
E. H. ROBINSON,

Witness to signature of Josiah Seagrave, Jr.,
ALEX. FARNUM.

Witness to signature of Hill, Carpenter & Co.,
ALEX. FARNUM.

Witness,
CYRUS G. DYER,
Of signature of R. Chapin & Son.

Witness to signature of Truman Beckwith,
HENRY T. BECKWITH.

Witness to signature of A. N. Beckwith,
W. B. PEARCE.

Witness signature of H. Whitman,
JOSIAH H. ORMSBEE.

Witness to signature of Goddard & Brothers, Agts.
DANIEL W. LADD.

Witness to Varnum J. Bates,
EDWARD R. ARNOLD.

Whereas Stephen Waterman, of the city and county of Providence, and State of Rhode Island, made and executed a deed of assignment of all his property to Thomas A. Jenckes and Alexander Farnum, of said Providence, on the 19th day of April, A. D., 1854, and whereas by the terms of the said assignment, the creditors of said Stephen Waterman were required to execute and deliver to said Thomas A. Jenckes and Alexander Farnum a full release and discharge of the said Waterman, in order to become entitled to any dividend out of his said estate, within six months after the date of said deed of assignment:

Now, therefore, we, the undersigned, creditors of said Stephen Waterman, in consideration of the making and executing of said deed of assignment, and the dividends and benefits to which we may be entitled to under the same, and in further consideration of the sum of one dollar received to our full satisfaction of the said Stephen Waterman, do hereby for ourselves and the survivors of any copartnerships, and for our several and respective heirs, executors, administrators, and assigns, release and discharge him, the said Stephen Waterman, his heirs, executors, and administrators, from all claims and demands which we hold against him arising or growing out of any dealings, acts, matters, or transactions which

have taken place previous to the date hereof; reserving to ourselves all claims against the said Thomas A. Jenckes and Alexander Farnum, assignees as aforesaid, for any and all sums to which we now are or hereafter may be entitled out of the said assigned estate.

In testimony whereof, we have hereunto set our hands and seals this day of A. D. 1854.

Executed in presence of—

J. J. Adams	R. Lewin	Oct. 5th
N. B. Cook	H. A. Blakslee	Oct. 5th
	E. Van Voorhis & Co.	Oct. 5th
J. Burt	John Curtis	Oct. 5th
Jas. L. Harwag	William Partridge & Son	Oct. 5th
E. Beardsley	Law & Beardsley	Oct. 5th
Andrew Williamson	Reserving my claims against Samuel Harris, James Wilson	Oct. 16th
Alex. Farnum	Stephen N. Mason	Sept. 26th
Willis W. Ayer	James O. Morse,	
J. M. Baker	By Charles T. Gillis, atty	Oct. 13th
A. C. Holt	Geo. W. Fiske	Oct. 3d
Wm. Henry Parker	Thos. Kimber, jr.	Oct. 16th
B. W. Abram	Anable & Smith	Oct. 14th
Edward R. Arnold	James G. Whitaker,	
	By Mary E. Whitaker	Oct. 19th
J. Porter	Patrick Carrian	Oct. 17th
J. H. Wilbor	his James ⋈ King mark.	Oct. 6th
Clark Smith	Curtis & Hopper	Oct. 13th
Joseph Whitall	John Farnum & Co.	Sept. 21st
	John Farnum.	
C. Wheeler, jr.	Morris, Tasker & Morris	Sept. 21st
W. H. Reynolds	B. G. Wilkins	Sept. 21st
Alex. Farnum	B. F. Greene	Sept. 21st.
Saml. H. Wagstaff	H. A. & J. H. Richards	Oct. 17th.
Ezra R. Goodridge	S. W. Goodridge & Co	Oct. 17th.
Henry Chapin	Furbush & Crompton	Sept. 20th.
Alex. Farnum	T. K. Earle & Co	Sept. 20th.
J. R. Greene	G. S. & A. J. Howe	Sept. 20th.
Alex. Farnum	Daniel Tainter	Sept. 20th.
Alex. Farnum	C. A. Harrington & Co	Sept. 20th.
Alex. Farnum	Davis & Furber	Sept. 20th.
William Baxter	David Scull, Son & Co	Sept. 21st.
Martha S. Durham..... Lizzie R. Fitsy	E. N. Kellogg & Co.	Oct. 3d.
Chas. W. Lowe	Rufus Sargent	Oct. 17th.
	Edmond Mortimer	Oct. 17th.

S. N. Smith	Russell & Smith	Oct. 13th.
	Auburn Gas Light Co	
	By P. F. Freehoff, Treas	Oct. 13th.
C. A. Seward	Pulsifer & Lewis	
	By Thos. Douglass	Oct. 13th.
Geo. W. Fiss	"Reserving our claims unimpared against Sam. Harris,"	
	Edwards & Jenness	Sept. 21st.

Also to the same form of release with the changes as specified in the margin.

"The figures "19th," and the word "April," having been first erased in the third line, and the word "six," in the fifth line, and the figures "18," and the word October, interlined in the third line, and the word "two" interlined in the fifth line before signing."	Said changes being expressed on the release over the signature of the subscribing witness.

Geo. B. Warren, jr	Wm. McKie	Nov. 25th.
Henry D. Paine	Herrington & Warren	Oct. 26th.
W. Henry Parker	Kimber Henry & Co	Dec. 13th.
L. B. Squier	Howland, Burgess & Smith	Dec. 19th.

CIRCUIT COURT OF THE UNITED STATES,
Southern District of New York.

EDWARD M. LIVERMORE and DAVID B. SEXTON, appellants,
agt.
STEPHEN WATERMAN, THOMAS JENCKES, and ALEXANDER FARNUM.

I, Kenneth G. White, clerk of the circuit court of the United States of America in and for the southern district of New York, and second circuit, do hereby certify to the Supreme Court of the United States that the decree, pleadings, depositions, and other proceedings in the above-entitled cause, hereunto annexed, are the transcripts of the originals remaining on the files of my office in the said cause. [L. S.]

In testimony whereof, I have hereunto subscribed my name and affixed the seal of the said court, at my office in the city of New York, this third day of December, in the year of our Lord one thousand eight hundred and fifty-seven and of the independence of United States the eighty-second.

KENNETH G. WHITE,
Clerk.